

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

ENGROSSED

House Bill 4848

BY DELEGATES STEELE, DEAN, SMITH AND YOUNG

[Originating in the Committee on Government

Organization; reported on February 25, 2022]

1 A BILL to repeal §60-3A-19 of the Code of West Virginia, 1931, as amended; to repeal §60-4-10
2 of said code; to repeal §60-7-17 of said code; to amend and reenact §11-16-6d, §11-16-
3 6f, and §11-16-8 of said code; to amend said code by adding thereto a new section,
4 designated §60-1-3a; to amend and reenact §60-3-22 of said code; to amend and reenact
5 §60-3A-3a, §60-3A-3b, §60-3A-8, §60-3A-17, and §60-3A-19 of said code; to amend and
6 reenact §60-4-22 and §60-4-23 of said code; to amend and reenact §60-6-24 of said code;
7 to amend and reenact §60-7-2, §60-7-6, §60-7-8a, and §60-7-8f, of said code; to amend
8 said code by adding thereto a new section, designated §60-7-2a; to amend and reenact
9 §60-8-6c, §60-8-6e, and §60-8-6f of said code; and to amend and reenact §61-8-27 of
10 said code, all relating to nonintoxicating beer, wine, and liquor licenses and requirements;
11 removing limitations on the convenience fee; removing provisions requiring a scanned
12 stored image of a driver's license or other legal identification; providing for other legal
13 identification verification requirements; providing for removal of the 300 foot requirement
14 under certain conditions; clarifying that persons convicted of certain crimes under certain
15 conditions are not eligible for a license when applying for a nonintoxicating beer,
16 nonintoxicating craft beer, or liquor license; clarifying that licensees are not required to
17 place alcoholic liquors in a bag after purchase; streamlining certain sale requirements;
18 altering the requirements relating to prior approval for a sampling event; revising to require
19 prior notice before a tasting event; removing provisions relating to a five dollar cap on the
20 convenience fee to deliver drinks containing liquor, wine, or nonintoxicating beer or
21 nonintoxicating craft beer; increasing the minimum markup from 110 percent to 115
22 percent; removing unconstitutional provisions relating to a moratorium on exotic
23 entertainment; revising the blood alcohol chart; creating a license for a private bakery to
24 produce confections with alcohol added and setting a license fee; creating a license for a
25 private cigar shop to, where legally permissible, permit the sale of alcohol, food, and cigars
26 for on-premises consumption, and setting a license fee; creating a license for a private
27 college sports stadium for alcohol sales in certain areas of Division I, II, or III sports

28 stadiums, and setting a license fee; creating a license for a private food truck to conduct
29 food and alcohol sales at various locations when permitted by a municipality, and setting
30 a license fee; permitting private hotels and private resort hotels to apply for a private
31 caterer license; authorizing private hotels and private resorts hotels to utilize in-room mini-
32 bars for limited alcohol sales to adults 21 year of age and over; authorizing licensed
33 entities to hold a secondary license for purposes of events, fairs, and festivals; authorizing
34 wine growler sales where wine may be mixed with ice and water to produce a frozen
35 alcoholic beverage for sale in sealed wine growlers, and additional requirements; and
36 providing additional exceptions to the criminal penalty for the unlawful admission of
37 children to a dance hall for certain private clubs with an age verification system.

Be it enacted by the Legislature of West Virginia:

CHAPTER 11. TAXATION.

ARTICLE 16. NONINTOXICATING BEER.

§11-16-6d. Nonintoxicating beer or nonintoxicating craft beer delivery license for a licensed Class A retail dealer or a third party; requirements; limitations; third party license fee; retail transportation permit; and requirements.

1 (a) A Class A retail dealer who is licensed to sell nonintoxicating beer or nonintoxicating
2 craft beer may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license
3 permitting the order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer in a
4 sealed original container of bottles or cans, and sealed growlers, when separately licensed for
5 growler sales. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer
6 is permitted for off-premises consumption when completed by the licensee or the licensee's
7 employees to a person purchasing the nonintoxicating beer or nonintoxicating craft beer by
8 telephone, a mobile ordering application, or a web-based software program, as authorized by the
9 licensee's license. There is no additional fee for licensed Class A retail dealers to obtain a
10 nonintoxicating beer or nonintoxicating craft beer delivery license. The order, sale, and delivery

11 process shall meet the requirements of this section. The order, sale, and delivery process is
12 subject to the penalties of this article.

13 (b) A third party, not licensed for nonintoxicating beer or nonintoxicating craft beer sales
14 or distribution, may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license
15 for the privilege and convenience to offer ordering and delivery services of nonintoxicating beer
16 or nonintoxicating craft beer in the sealed original container of bottles or cans, and sealed
17 growlers, from a licensee with a growler license. The order, sale, and delivery of nonintoxicating
18 beer or nonintoxicating craft beer is permitted for off-premises consumption when the Class A
19 retail dealer sells to a person purchasing the nonintoxicating beer or nonintoxicating craft beer
20 through telephone orders, a mobile ordering application, or a web-based software program. The
21 annual nonintoxicating beer or nonintoxicating craft beer delivery license fee is \$200 per third
22 party entity, with no limit on the number of drivers and vehicles. The delivery license fee under
23 this subsection may not be prorated nor refunded.

24 (c) The nonintoxicating beer or nonintoxicating craft beer delivery license application shall
25 comply with licensure requirements in §11-16-8 of this code, and shall require any information set
26 forth in this article and as reasonably required by the commissioner.

27 (d) *Sale Requirements.* —

28 (1) The nonintoxicating beer or nonintoxicating craft beer purchase shall accompany the
29 purchase of prepared food or a meal and the completion of the sale may be accomplished by the
30 delivery of the prepared food or meal and nonintoxicating beer or nonintoxicating craft beer by
31 the Class A retail dealer or third party licensee;

32 (2) Any person purchasing nonintoxicating beer or nonintoxicating craft beer shall be 21
33 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall
34 meet the requirements set forth in this article for the sale of nonintoxicating beer or nonintoxicating
35 craft beer;

36 (3) "Prepared food or a meal" shall, for purposes of this article, mean food that has been
37 cooked, grilled, fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched,
38 sautéed, or in any other manner freshly made and prepared, and does not include pre-packaged
39 food from the manufacturer;

40 (4) An order, sale, or delivery consisting of multiple meals shall not amount to any
41 combination of bottles, cans, or sealed growlers in excess of 384 fluid ounces of nonintoxicating
42 beer or nonintoxicating craft beer; and

43 (5) A third party delivery licensee may not have a pecuniary interest in a Class A retail
44 dealer, as set forth in this article, therefore a third party delivery licensee may only charge a
45 convenience fee for the delivery of any nonintoxicating beer or nonintoxicating craft beer. The
46 third party licensee may not collect a percentage of the delivery order for the delivery of alcohol,
47 but may continue to collect a percentage of the delivery order directly related to the prepared food
48 or a meal. ~~The convenience fee charged by the third party delivery licensee to the person~~
49 ~~purchasing may not be greater than five dollars per delivery order where nonintoxicating beer or~~
50 ~~nonintoxicating craft beer are ordered by the purchasing person. For any third party licensee also~~
51 ~~licensed for wine growler delivery as set forth in §60-8-6c of the code, or craft cocktail growler~~
52 ~~delivery as set forth in §60-7-8f of the code, the total convenience fee of any order, sale, and~~
53 ~~delivery of a sealed growler, wine growler, or craft cocktail growler shall not exceed five dollars.~~

54 (e) *Delivery Requirements.* —

55 (1) Delivery persons employed for the delivery of nonintoxicating beer or nonintoxicating
56 craft beer shall be 21 years of age or older. The licensed Class A retail dealer and the third party
57 delivery licensee shall file each delivery person's name, driver's license, and vehicle information
58 with the commissioner;

59 (2) A Class A retail dealer or third party delivery licensee shall train delivery persons on
60 verifying legal identification and in identifying the signs of intoxication and shall submit certification
61 of the training to the commissioner;

62 (3) The Class A retail dealer or third party delivery licensee shall hold a retail transportation
63 permit for each delivery vehicle delivering sealed nonintoxicating beer or nonintoxicating craft
64 beer pursuant to §11-16-6d(g) of this code: *Provided*, That a delivery driver may retain an
65 electronic copy of his or her permit;

66 (4) A Class A retail dealer or third party delivery licensee may only deliver prepared food
67 or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer orders in the county or
68 contiguous counties where the Class A retail dealer is located;

69 (5) A Class A retail dealer or third party delivery licensee may only deliver prepared food
70 or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer to addresses located in
71 West Virginia. A Class A retail dealer or third party delivery licensee shall pay and account for all
72 sales and municipal taxes;

73 (6) A Class A retail dealer or third party delivery licensee may not deliver prepared food
74 or a meal, and nonintoxicating beer or nonintoxicating craft beer to any other Class A licensee;

75 (7) A Class A retail dealer or third party delivery licensee may only deliver prepared food
76 or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer for personal use, and not
77 for resale; and

78 (8) A Class A retail dealer or third party delivery licensee shall not deliver and leave
79 prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer at any
80 address without verifying a person's age and identification as required by this section.

81 (f) *Telephone, mobile ordering application, or web-based software requirements.* —

82 (1) The delivery person may only permit the person who placed the order through a
83 telephone, mobile ordering application, or web-based software to accept the prepared food or a
84 meal, and nonintoxicating beer or nonintoxicating craft beer delivery which is subject to age
85 verification upon delivery with the delivery person's visual review and age verification ~~and, as~~
86 ~~applicable, a stored scanned image of the purchasing person's legal identification;~~

87 (2) Any mobile ordering application or web-based software used ~~shall create a stored~~
88 ~~record and image of the purchasing person's legal identification and details of the sale, accessible~~
89 ~~by the delivery person for verification, and shall include the delivery driver's name and vehicle~~
90 ~~information and delivery shall be subject to legal identification verification;~~

91 (3) Any telephone ordering system shall maintain a log or record of the purchasing
92 person's ~~legal~~ identification and details of the sale, accessible by the delivery person for
93 verification, ~~and shall include the delivery driver's name and vehicle information, and delivery shall~~
94 be subject to legal identification verification;

95 (4) All records are subject to inspection by the commissioner. A Class A retail dealer or
96 third party delivery licensee shall retain all records for three years, and may not unreasonably
97 withhold the records from the commissioner's inspection; and

98 (5) Each vehicle delivering nonintoxicating beer or nonintoxicating craft beer must be
99 issued a retail transportation permit per §11-16-6d(g) of this code.

100 (g) *Retail Transportation Permit.* —

101 (1) A Class A retail dealer or third party delivery licensee shall obtain and maintain a retail
102 transportation permit for the delivery of prepared food and nonintoxicating beer or nonintoxicating
103 craft beer.

104 (2) A Class A retail dealer or a third party licensee shall apply for a permit and provide
105 vehicle and driver information, as required by the commissioner. Upon any change in vehicles or
106 drivers, the Class A retail dealer or third party delivery licensee shall update the vehicle and driver
107 information with the commissioner within 10 days of the change.

108 (h) *Enforcement.* —

109 (1) A Class A retail dealer or third party delivery licensee are responsible for any violations
110 committed by their employees or independent contractors under this article, and more than one
111 violation may be issued for a single violation involving multiple Class A retail dealers or licensees,
112 employees, or independent contractors.

113 (2) A license or permit granted by this section is subject to the penalties of probation,
114 monetary fines, suspension, and revocation, as set forth in this article, for violations committed
115 by the Class A retail dealer or third party delivery licensee, its employees, or independent
116 contractors.

117 (3) It is a violation for any licensee, its employees, or independent contractors to break the
118 seal of a growler subject to the maximum penalties available in this article.

119 (4) For purposes of criminal enforcement of the provisions of this article, persons ordering,
120 purchasing, or accepting delivery of orders are considered to be purchasers.

**§11-16-6f. Nonintoxicating beer or nonintoxicating craft beer delivery license for a licensed
Class B retail dealer or a third party; requirements; limitations; third party license
fee; retail transportation permit; and requirements.**

1 (a) A Class B retail dealer who is licensed to sell nonintoxicating beer or nonintoxicating
2 craft beer may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license
3 permitting the order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer in a
4 sealed original container of bottles or cans, and sealed growlers, when separately licensed for
5 growler sales. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer
6 is permitted for off-premises consumption when completed by the licensee or the licensee's
7 employees to a person purchasing the nonintoxicating beer or nonintoxicating craft beer by a
8 telephone, a mobile ordering application, or web-based software program, as authorized by the
9 licensee's license. There is no additional fee for licensed Class B retail dealers to obtain a
10 nonintoxicating beer or nonintoxicating craft beer delivery license. The order, sale, and delivery
11 process shall meet the requirements of this section. The order, sale, and delivery process is
12 subject to the penalties of this article.

13 (b) A third party, not licensed for nonintoxicating beer or nonintoxicating craft beer sales
14 or distribution, may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license
15 for the privilege and convenience to offer ordering and delivery services of nonintoxicating beer

16 or nonintoxicating craft beer in the sealed original container of bottles or cans, and sealed
17 growlers, from a licensee with a growler license. The order, sale, and delivery of nonintoxicating
18 beer or nonintoxicating craft beer is permitted for off-premises consumption when the Class B
19 retail dealer sells to a person purchasing the nonintoxicating beer or nonintoxicating craft beer
20 through a telephone order, a mobile ordering application, or web-based software program. The
21 nonintoxicating beer or nonintoxicating craft beer delivery annual license fee is \$200 per third
22 party licensee, with no limit on the number of drivers and vehicles. The delivery license fee under
23 this subsection may not be prorated nor refunded.

24 (c) The nonintoxicating beer or nonintoxicating craft beer delivery license application shall
25 comply with licensure requirements in §11-16-8 of this code and shall require any information set
26 forth in this article and as reasonably required by the commissioner.

27 (d) *Sale Requirements.* —

28 (1) The nonintoxicating beer or nonintoxicating craft beer purchase shall accompany the
29 purchase of food and the completion of the sale may be accomplished by the delivery of food and
30 nonintoxicating beer or nonintoxicating craft beer by the licensee or third party licensee;

31 (2) Any person purchasing nonintoxicating beer or nonintoxicating craft beer shall be 21
32 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and meet
33 the requirements set forth in this article for the sale of nonintoxicating beer or nonintoxicating craft
34 beer;

35 (3) Food, for purposes of this section, means food that has been cooked, microwaved, or
36 that is pre-packaged food from the manufacturer;

37 (4) An order, sale, or delivery consisting of food and any combination of sealed
38 nonintoxicating beer or nonintoxicating craft beer bottles, cans, or growlers shall not be in excess
39 of 384 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; and

40 (5) A third party delivery licensee shall not have a pecuniary interest in a Class B retail
41 dealer, as set forth in this article. A third party delivery licensee may only charge a convenience

42 fee for the delivery of any nonintoxicating beer or nonintoxicating craft beer. The third party
43 licensee may not collect a percentage of the delivery order for the delivery of nonintoxicating beer
44 or nonintoxicating craft beer, but may continue to collect a percentage of the delivery order directly
45 related to food. ~~The convenience fee charged by the third party delivery licensee to the purchasing~~
46 ~~person may not be greater than five dollars per delivery order. For any third party licensee also~~
47 ~~licensed for wine delivery as set forth in §60-8-6f of this code the total convenience fee for any~~
48 ~~order, sale, and delivery of sealed wine may not exceed five dollars.~~

49 (e) *Delivery Requirements.* —

50 (1) Delivery persons employed for the delivery of nonintoxicating beer or nonintoxicating
51 craft beer shall be 21 years of age or older. A Class B retail dealer and a third party licensee shall
52 file each delivery person's name, driver's license, and vehicle information with the commissioner;

53 (2) A Class B retail dealer and a third party licensee shall train delivery persons on verifying
54 legal identification and in identifying the signs of intoxication and submit the certification of the
55 training to the commissioner;

56 (3) The Class B retail dealer or third party delivery licensee shall hold a retail transportation
57 permit for each delivery vehicle delivering sealed nonintoxicating beer or nonintoxicating craft
58 beer pursuant to §11-16-6f(g) of this code: *Provided*, That a delivery driver may retain an
59 electronic copy of his or her permit as proof of the licensure;

60 (4) A Class B retail dealer and a third party licensee may deliver food and sealed
61 nonintoxicating beer or nonintoxicating craft beer orders in the county where the Class B retail
62 dealer is located;

63 (5) A Class B retail dealer and a third party licensee may only deliver food and sealed
64 nonintoxicating beer or nonintoxicating craft beer to addresses located in West Virginia. A Class
65 B retail dealer and a third party licensee shall pay and account for all sales and municipal taxes;

66 (6) A Class B retail dealer and a third party licensee may not deliver food and
67 nonintoxicating beer or nonintoxicating craft beer to any other Class B licensee;

68 (7) Deliveries of food and sealed nonintoxicating beer or nonintoxicating craft beer are
69 only for personal use, and not for resale; and

70 (8) A Class B retail dealer and a third party licensee shall not deliver and leave food and
71 sealed nonintoxicating beer or nonintoxicating craft beer at any address without verifying a
72 person's age and identification as required by this section.

73 (f) *Telephone, mobile ordering application, or web-based software requirements.* —

74 (1) The delivery person may only permit the person who placed the order through a
75 telephone, mobile ordering application, or web-based software to accept the food and
76 nonintoxicating beer or nonintoxicating craft beer delivery. The delivery is subject to age
77 verification upon delivery with the delivery person's visual review and age verification ~~and, as~~
78 ~~applicable, requires a stored scanned image of the purchasing person's legal identification;~~

79 (2) Any mobile ordering application or web-based software used ~~must create a stored~~
80 ~~record and image of the purchasing person's legal identification and details of the sale, accessible~~
81 ~~by the delivery person for verification, and shall include the delivery driver's name and vehicle~~
82 ~~information~~ and delivery shall be subject to legal identification verification;

83 (3) Any telephone ordering system shall maintain a log or record of the purchasing
84 person's ~~legal~~ identification and details of the sale, accessible by the delivery person for
85 verification, ~~and shall include the delivery driver's name and vehicle information,~~ and delivery shall
86 be subject to legal identification verification;

87 (4) All records are subject to inspection by the commissioner. A Class B retail dealer and
88 a third party licensee shall retain all records for three years, and may not unreasonably withhold
89 the records from the commissioner's inspection; and

90 (5) Each vehicle delivering nonintoxicating beer or nonintoxicating craft beer shall be
91 issued a retail transportation permit in accordance with §11-16-6f(g) of this code.

92 (g) *Retail Transportation Permit.* —

93 (1) A Class B retail dealer and a third party licensee shall obtain and maintain a retail
94 transportation permit for the delivery of food and nonintoxicating beer or nonintoxicating craft beer.

95 (2) A Class B retail dealer or a third party licensee shall apply for a permit and provide
96 vehicle and driver information, required by the commissioner. Upon any change in vehicles or
97 drivers, Class B retail dealer and a third party licensee shall update the vehicle and driver
98 information with the commissioner within 10 days of the change.

99 (h) *Enforcement.* —

100 (1) The Class B retail dealer and a third party licensee are responsible for any violations
101 committed by their employees or independent contractors under this article, and more than one
102 violation may be issued for a single violation involving multiple Class B retail dealers or third party
103 licensees, employees, or independent contractors.

104 (2) A license or permit granted by this section is subject to the penalties of probation,
105 monetary fines, suspension, and revocation, as set forth in this article, for violations committed
106 by the Class B retail dealer or third party licensee, their employees, or independent contractors.

107 (3) It is a violation for any Class B retail dealer or third party licensee, their employees, or
108 independent contractors to break the seal of a growler subject to the maximum penalties available
109 in this article.

110 (4) For purposes of criminal enforcement of the provisions of this article, persons ordering,
111 purchasing, or accepting delivery of orders are considered to be purchasers.

§11-16-8. Form of application for license; fee and bond; refusal of license.

1 (a) A license may be issued by the commissioner to any person who submits an
2 application, accompanied by a license fee and, where required, a bond, and states under oath:

3 (1) The name and residence of the applicant, the duration of ~~such~~ the residency, and that
4 the applicant is 21 years of age. If the applicant is a firm, association, partnership, limited
5 partnership, limited liability company, or corporation, the application shall include the residence
6 of the members or officers. If a person, firm, partnership, limited partnership, limited liability

7 company, association, corporation, or trust applies for a license as a distributor, the person, or in
8 the case of a firm, partnership, limited partnership, limited liability company, association or trust,
9 the members, officers, trustees or other persons in active control of the activities of the limited
10 liability company, association or trust relating to the license, shall include the residency for these
11 persons on the application. All applicants and licensees ~~must~~ shall include a manager on the
12 applicant's license application, or a licensee's renewal application who ~~must~~ shall meet all other
13 requirements of licensure, including, but not limited to, United States citizenship or naturalization,
14 passing a background investigation, being at least 21 years of age, ~~being a suitable person, being~~
15 ~~of good morals and character,~~ and other requirements, all as set forth in this article and the rules,
16 promulgated thereunder, all in the interest of protecting public health and safety ~~and being a~~
17 ~~suitable applicant or licensee.~~ In order to maintain licensure, a licensee shall notify the
18 commissioner immediately of a change in managers. If the applicant is a trust or has a trust as an
19 owner, the trustees, or other persons in active control of the activities of the trust relating to the
20 license shall provide a certification of trust as described in §44D-10-1013 of this code. This
21 certification of trust shall include the excerpts described in §44D-10-1013(e), of this code and
22 shall further state, under oath, the names, addresses, Social Security numbers and birth dates of
23 the beneficiaries of the trust and certify that the trustee and beneficiaries are 21 years of age or
24 older. If a beneficiary is not 21 years of age, the certification of trust ~~must~~ shall state that the
25 beneficiary's interest in the trust is represented by a trustee, parent, or legal guardian who is 21
26 years of age and who will direct all actions on behalf of the beneficiary related to the trust with
27 respect to the distributor until the beneficiary is 21 years of age. Any beneficiary who is not 21
28 years of age or older shall have his or her trustee, parent, or legal guardian include in the
29 certification of trust and state under oath his or her name, address, Social Security number, and
30 birth date;

31 (2) The place of birth of applicant, that he or she is a citizen of the United States ~~and of~~
32 ~~good moral character~~ and, if a naturalized citizen, when and where naturalized. If the applicant is

33 a corporation organized or authorized to do business under the laws of the state, the application
34 ~~must~~ shall state when and where incorporated, the name and address of each officer, and that
35 each officer is a citizen of the United States ~~and a person of good moral character~~. If the applicant
36 is a firm, association, limited liability company, partnership, limited partnership, trust, or has a trust
37 as an owner, the application shall provide the place of birth of each member of the firm,
38 association, limited liability company, partnership or limited partnership and of the trustees,
39 beneficiaries, or other persons in active control of the activities of the trust relating to the license
40 and that each member or trustee, beneficiary or other persons in active control of the activities of
41 the trust relating to the license is a citizen of the United States, and if a naturalized citizen, when
42 and where naturalized, each of whom ~~must~~ shall qualify and sign the application;

43 (3) The particular place for which the license is desired and a detailed description thereof;

44 (4) The name of the owner of the building and, if the owner is not the applicant, that the
45 applicant is the actual and bona fide lessee of the premises;

46 (5) That the place or building in which is proposed to do business conforms to all applicable
47 laws of health, fire, and zoning regulations and is a safe and proper place or building; not within
48 300 feet of a school or church measured from front door to front door, along the street or streets.
49 This requirement does not apply to a Class B license or to a place occupied by a beer licensee
50 so long as it is continuously so occupied. The prohibition against locating any such place within
51 300 feet of a school or church does not apply to any school or church that has notified the
52 commissioner, in writing, that it has no objection to the location of any such place within 300 feet.
53 The prohibition against locating any such place within 300 feet of a school does not apply to a
54 college or university. ~~The prohibition against locating a proposed business in a place or building~~
55 ~~within 300 feet of a school does not apply to a college or university that has notified the~~
56 ~~commissioner, in writing, that it has no objection to the location of a proposed business in a place~~
57 ~~or building within 300 feet of the college or university~~

58 (6) That the applicant is not incarcerated and has not, in the previous five years before
59 application, (A) been convicted of a felony, (B) been convicted of a crime involving fraud,
60 dishonesty or deceit, and/or (C) been convicted of a felony for violating alcohol-related distribution
61 laws; ~~during the five years preceding the date of said application been convicted of a felony;~~

62 (7) That the applicant is the only person in any manner pecuniarily interested in the
63 business so asked to be licensed and that no other person is in any manner pecuniarily interested
64 during the continuance of the license; and

65 (8) That the applicant has not during five years preceding the date of the application had
66 a nonintoxicating beer license revoked.

67 (b) In the case of an applicant that is a trust or has a trust as an owner, a distributor license
68 may be issued only upon submission by the trustees or other persons in active control of the
69 activities of the trust relating to the distributor license of a true and correct copy of the written trust
70 instrument to the commissioner for his or her review. Notwithstanding any provision of law to the
71 contrary, the copy of the written trust instrument submitted to the commissioner pursuant to this
72 section is confidential and is not a public record and is not available for release pursuant to the
73 West Virginia Freedom of Information Act codified in §29B-1-1 *et seq.* of this code.

74 (c) The provisions and requirements of subsection (a) of this section are mandatory
75 prerequisites for the issuance and, if any applicant fails to qualify, the license shall be refused. In
76 addition to the information furnished in any application, the commissioner may make such
77 additional and independent investigation of each applicant, manager, and of the place to be
78 occupied as necessary or advisable and, for this reason, all applications, with license fee and
79 bond, ~~must~~ shall be submitted with all true and correct information. For the purpose of conducting
80 ~~such~~ the independent investigation, the commissioner may withhold the granting or refusal to
81 grant the license for a 30-day period or until the applicant has completed the conditions set forth
82 in this section. If it appears that the applicant and manager meet the requirements in the code

83 and the rules, including, but not limited to, has not been convicted of a felony in the previous five
84 years before application, has not been convicted of a crime involving fraud, dishonesty or deceit
85 in the previous five years before application, has not been convicted of a felony for violating any
86 alcohol-related distribution laws; ~~being a suitable person of good reputation and morals;~~ having
87 made no false statements or material misrepresentations; involving no hidden ownership; and
88 having no persons with an undisclosed pecuniary interest contained in the application; and if there
89 are no other omissions or failures by the applicant to complete the application, as determined by
90 the commissioner, the commissioner shall issue a license authorizing the applicant to sell
91 nonintoxicating beer or nonintoxicating craft beer.

92 (d) The commissioner may refuse a license to any applicant under the provisions of this
93 article if the commissioner determines ~~is of the opinion~~:

94 (1) That the applicant or manager has, within the previous five years before application,
95 (A) been convicted of a felony within the previous five years, (B) been convicted of a crime
96 involving fraud, dishonesty, or deceit, or (C) been convicted of a felony for violating any alcohol-
97 related distribution laws; ~~is not a suitable person to be licensed;~~

98 (2) That the place to be occupied by the applicant is not a suitable place; or is within 300
99 feet of any school or church measured from front door to front door along the street or streets.
100 This requirement does not apply to a Class B licensee or to a place now occupied by a beer
101 licensee. The prohibition against locating any such place within 300 feet of a school or church
102 does not apply to any school or church that has notified the commissioner, in writing, that it has
103 no objection to the location of any such place within 300 feet. The prohibition against locating any
104 such place within 300 feet of a school does not apply to a college or university; ~~so long as it is~~
105 ~~continuously so occupied. The prohibition against locating any such place within 300 feet of a~~

106 ~~school does not apply to a college or university that has notified the commissioner, in writing, that~~
107 ~~it has no objection to the location of any such place within 300 feet.~~

108 (3) That the manager, owner, employee, or person is in a contractual relationship to
109 provide goods or services to the applicant is an active employee of the commissioner; or

110 (4) That the license should not be issued for reason of conduct declared to be unlawful by
111 this article.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 1. GENERAL PROVISIONS.

§60-1-3a. Off-premises sales not required to be bagged.

1 Subject to the provisions of this chapter, alcoholic liquors, in this state are not required to
2 be placed in bag by a licensee who is licensed for off-premises sales of alcoholic liquors.

ARTICLE 3. SALES BY COMMISSIONER.

§60-3-22. Sales to certain persons prohibited.

1 (a) Alcoholic liquors and nonintoxicating beer as defined in §11-16-3 of this code shall not
2 be sold to a person who is:

3 (1) Less than 21 years of age;

4 ~~(2) An habitual drunkard;~~

5 ~~(3) Intoxicated; or~~

6 ~~(4) Addicted to the use of any controlled substance as defined by any of the provisions of~~
7 ~~chapter sixty a of this code; or~~

8 ~~(5) Mentally incompetent.~~

9 (b) It shall be a defense to a violation of subdivision (1), subsection (a) of this section if
10 the seller shows that the purchaser:

11 (1) Produced written evidence which showed his or her age to be at least the required age
12 for purchase and which bore a physical description of the person named on the writing which
13 reasonably described the purchaser; or

14 (2) Produced evidence of other facts that reasonably indicated at the time of sale that the
15 purchaser was at least the required age.

ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.

§60-3A-3a. Liquor sampling.

1 (a) Notwithstanding any provision of this code to the contrary, a Class A retail licensee
2 may, ~~with the written approval of the commissioner,~~ conduct a liquor sampling event on a
3 designated sampling day.

4 (b) At least five business days prior to the liquor sampling, the Class A retail licensee shall
5 submit a written proposal to the commissioner ~~requesting to~~ informing the Commissioner that the
6 Class A licensee will hold a liquor sampling event, including:

- 7 (1) The day of the event;
- 8 (2) The location of the event;
- 9 (3) The times for the event; and
- 10 (4) The specific brand and flavor of the West Virginia product to be sampled.

11 (c) Upon approval by the commissioner, a Class A retail licensee may serve a
12 complimentary liquor sample of the approved brand and flavor of the West Virginia product that
13 is purchased by the Class A retail licensee from the commissioner.

14 (d) The complimentary liquor samples on any sampling day shall not exceed:

- 15 (1) One separate and individual sample serving per customer verified to be 21 years of
16 age or older; and
- 17 (2) One ounce in total volume.

18 (e) Servers at the liquor sampling event shall:

- 19 (1) Be employees of the Class A retail licensee; and
- 20 (2) Be at least 21 years of age or older; ~~and~~

21 ~~(3) Have specific knowledge of the West Virginia product being sampled to convey to the~~
22 ~~customer.~~

23 (f) All servers at the liquor sampling event shall verify the age of the customer sampling
24 liquor by requiring and reviewing proper forms of identification. Servers at the liquor sampling
25 event may not serve any person who is:

26 (1) Under the age of 21 years;

27 (2) Intoxicated.

28 (g) A liquor sampling event shall:

29 (1) Occur only inside the Class A retail licensee's licensed premises; and

30 (2) Cease on or before 9:00 p.m. on any approved sampling day.

31 (h) Any liquor bottle used for sampling must be from the inventory of the licensee, and
32 clearly and conspicuously labeled "SAMPLE, NOT FOR RESALE". If the seal is broken on any
33 liquor bottle or if any liquor bottle is opened, then that liquor bottle must be removed from the
34 licensed premises immediately following the event.

35 (i) Violations of this section are subject to the civil and criminal penalties set forth in
36 sections twenty-four, twenty-five-a, twenty-six and twenty-seven of this article;

37 ~~(j) To implement the provisions of this section, the commissioner may promulgate~~
38 ~~emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a~~
39 ~~of this code or propose rules for legislative approval in accordance with the provisions of article~~
40 ~~three, chapter twenty-nine-a of this code.~~

**§60-3A-3b. Private liquor delivery license for a retail liquor outlet or a third party;
requirements; limitations; third party license fee; private liquor bottle delivery
permit; requirements, and curbside in-person and in-vehicle delivery by a retail
liquor outlet.**

1 (a) A retail liquor outlet that is licensed to sell liquor for off-premises consumption may
2 apply for a private liquor delivery license permitting the order, sale, and delivery of sealed liquor
3 bottles or cans in the original container. The order, sale, and delivery of sealed liquor bottles or

4 cans in the original container is permitted for off-premises consumption when completed by the
5 licensee to a person purchasing the sealed liquor bottles or cans through a telephone, a mobile
6 ordering application, or a web-based software program, authorized by the licensee's license.
7 There is no additional fee for a licensed retail liquor outlet to obtain a private liquor delivery license.
8 The order, sale, and delivery process shall meet the requirements of this section. The order, sale,
9 and delivery process is subject to the penalties of this article.

10 (b) A third party, not licensed for liquor sales or distribution, may apply for a private liquor
11 delivery license for the privilege of ordering and delivery of sealed liquor bottles or cans, from a
12 licensed retail liquor outlet. The order and delivery of sealed liquor bottles or cans permitted for
13 off-premises consumption by a third party licensee when a retail liquor outlet sells to a person
14 purchasing the sealed liquor bottles or cans through telephone orders, a mobile ordering
15 application, or a web-based software program. The private liquor delivery license non-prorated,
16 nonrefundable annual fee is \$200 per third party entity, with no limit on the number of drivers and
17 vehicles.

18 (c) The private liquor delivery license application shall comply with licensure requirements
19 in this article and shall provide any information required by the commissioner.

20 (d) Sale Requirements. -

21 (1) The purchase of sealed liquor bottles or cans in the original container may accompany
22 the purchase of food and the completion of the sale may be accomplished by the delivery of food
23 and sealed liquor bottles or cans in the original container by the licensee or third party licensee;

24 (2) Any purchasing person shall be 21 years of age or older, shall not be visibly or
25 noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this
26 chapter for the sale of alcoholic liquors and in §11-16-1 *et seq.* of the code, for nonintoxicating
27 beer or nonintoxicating craft beer.

28 (3) "Food", for purposes of this section, means food that has been cooked, microwaved,
29 or that is pre-packaged food from the manufacturer.

30 (4) An order, sale, and delivery may consist of up to five 750 milliliter sealed liquor bottles
31 for each order: *Provided*, That the entire delivery order may not contain any combination of sealed
32 liquor bottles or cans in the original container, where the combination is more than 128 fluid
33 ounces of liquor total; and

34 (5) A third party delivery licensee shall not have a pecuniary interest in a retail liquor outlet,
35 as set forth in this article. A third party private liquor delivery licensee may only charge a
36 convenience fee for the delivery of any alcohol. The third party private liquor delivery licensee
37 may not collect a percentage of the liquor delivery order, but may continue to collect a percentage
38 of the delivery order directly related to food. ~~The convenience fee charged by the third party~~
39 ~~private liquor delivery licensee to the purchasing person shall be no greater than five dollars per~~
40 ~~delivery order where a sealed liquor bottle or can in the original container is ordered by the~~
41 ~~purchasing person. For any third party licensee also licensed for other nonintoxicating beer or~~
42 ~~nonintoxicating craft beer delivery pursuant to §11-16-1 et seq. of this code, wine delivery~~
43 ~~pursuant to §60-8-1 et seq. of this code, or a sealed craft cocktail growler delivery pursuant to~~
44 ~~§60-7-1 et seq. of this code, the total convenience fee of any order, sale, and delivery of sealed~~
45 ~~alcoholic liquor or nonintoxicating beer, or nonintoxicating craft beer shall not exceed five dollars.~~

46 (e) *Private Liquor Delivery Requirements.* —

47 (1) Delivery persons employed for the delivery of a sealed liquor bottles or cans in the
48 original container shall be 21 years of age or older and a retail liquor outlet and a third-party
49 private liquor delivery licensee shall file each delivery person's name, driver's license, and vehicle
50 information with the commissioner;

51 (2) A retail liquor outlet and a third-party private liquor delivery licensee shall train delivery
52 persons on verifying legal identification and in identifying the signs of intoxication. A retail liquor
53 outlet and a third-party private liquor delivery licensee shall submit certification of the training to
54 the commissioner;

55 (3) The retail liquor outlet or third party private liquor delivery licensee shall hold a private
56 liquor bottle delivery permit for each vehicle delivering a sealed liquor bottle or can in the original
57 container pursuant to subsection (g) of this section: *Provided*, That a delivery driver may retain
58 an electronic copy of his or her permit as proof of licensure;

59 (4) A retail liquor outlet or third party private liquor delivery licensee shall deliver food and
60 a sealed liquor bottle or can order in the original container in the market zone or contiguous market
61 zone where the licensed retail liquor outlet is located;

62 (5) A retail liquor outlet or third party private liquor delivery licensee may only deliver food
63 and a sealed liquor bottle or can in the original container to addresses located in West Virginia,
64 The retail liquor outlet or third party private liquor delivery licensee shall pay and account for all
65 sales and municipal taxes;

66 (6) A retail liquor outlet or third party private liquor delivery licensee may not deliver food
67 and a sealed liquor bottle or can in the original container to any licensee licensed under §11-16-
68 1 *et seq.* of this code, and under this chapter;

69 (7) Deliveries of food and a sealed liquor bottle or can in the original container are only for
70 personal use, and not for resale; and

71 (8) A retail liquor outlet or third party private liquor delivery licensee shall not deliver and
72 leave food and a sealed liquor bottle or can in the original container at any address without
73 verifying a person's age and identification as required by this section.

74 (f) *Telephone, mobile ordering application, or web-based software requirements.* —

75 (1) The delivery person shall only permit the person who placed the order through a
76 telephone order, a mobile ordering application ~~applicant~~, or web-based software to accept the
77 food and a sealed liquor bottle or can in the original container for delivery which is subject to
78 verification upon delivery with the delivery person's visual review and verification ~~and, as~~
79 ~~applicable, a stored scanned image of the purchasing person's legal identification;~~

80 (2) Any mobile ordering application or web-based software used shall ~~create a stored~~
81 ~~record and image of the purchasing person's legal identification and details of the sale, accessible~~
82 ~~by the delivery driver for verification, and shall~~ include the delivery driver's name and vehicle
83 information and delivery shall be subject to legal identification verification;

84 (3) Any telephone ordering system shall maintain a log or record of the purchasing
85 person's ~~legal~~ identification and details of the sale, ~~accessible by the delivery driver for~~
86 ~~verification,~~ and shall include the delivery driver's name and vehicle information and delivery shall
87 be subject to legal identification verification;

88 (4) All records are subject to inspection by the commissioner. A retail liquor outlet or third
89 party private liquor delivery licensee shall retain records for three years, and shall not
90 unreasonably withhold the records from the commissioner's inspection; and

91 (5) The retail liquor outlet or third party delivery licensee shall hold a valid private liquor
92 bottle delivery permit required by subsection (g) of this section for each vehicle that may offer
93 delivery.

94 (g) *Private Liquor Bottle Delivery Permit.* —

95 (1) A retail liquor outlet or third party delivery licensee shall obtain and maintain a retail
96 transportation permit for the delivery of and a sealed liquor bottle or can in the original container.

97 (2) A retail liquor outlet or third party private delivery licensee shall provide vehicle and
98 driver information, requested by the commissioner. Upon any change in vehicles or drivers, the
99 licensee shall update the driver and vehicle information with the commissioner within 10 days of
100 the change.

101 (3) Subject to the requirement of §60-6-12 of this code, a private liquor bottle delivery
102 permit shall meet the requirements of a transportation permit authorizing the permit holder to
103 transport liquor subject to the requirements of this chapter.

104 (h) *Enforcement.* —

105 (1) The retail liquor outlet or the licensed third party are responsible for any violations
106 committed by their employees or independent contractors under this article, and more than one
107 violation may be issued for a single violation involving multiple licensees, employees, or
108 independent contractors.

109 (2) Any license or permit granted by this section is subject to the penalties of probation,
110 monetary fines, suspension, and revocation, as set forth in this article, for violations committed
111 by the licensee, its employees, or independent contractors.

112 (3) It is a violation for any licensee, its employees, or independent contractors to break
113 the seal of a sealed liquor bottle. A person who violates the provisions of this subdivision is subject
114 to the maximum penalties available in this chapter.

115 (4) For purposes of criminal enforcement of the provisions of this article, persons ordering,
116 purchasing, and accepting delivery of orders are considered to be purchasers.

117 (i) Retail liquor outlets licensed for off-premises sales of sealed liquor bottles and cans in
118 the original container may provide for the sale and curbside in-person or in-vehicle pick-up of
119 sealed liquor bottles or cans in the original container, subject to verification that the purchasing
120 person is 21 years of age or older, and not visibly, or noticeably intoxicated, and as otherwise
121 specified in this article.

122 (j) Retail liquor outlets licensed for off-premises sales of sealed liquor bottles and cans in
123 the original container may provide for the sale and delivery through a drive up or drive through
124 structure, approved by the commissioner, of sealed liquor bottles or cans in the original container,
125 subject to verification that the purchasing person is 21 years of age or older, and not visibly, or
126 noticeably intoxicated, and as otherwise specified in this article.

§60-3A-8. Retail license application requirements; retail licensee qualifications.

1 (a) Prior to or simultaneously with the submission of a bid for a retail license or the payment
2 of a purchase option for a Class A retail license, each applicant shall file an application with the
3 commissioner, stating under oath, the following:

4 (1) If the applicant is an individual, his or her name and residence address;

5 (2) If the applicant is other than an individual, the name and business address of the
6 applicant; the state of its incorporation or organization; the names and residence addresses of
7 each executive officer and other principal officer, partner, or member of the entity; a copy of the
8 entity's charter or other agreement under which the entity operates; the names and residence
9 addresses of any person owning, directly or indirectly, at least 20 percent of the outstanding stock,
10 partnership, or other interests in the applicant; and all applicants and licensees must list a
11 manager on the applicant's license application, or a licensee's renewal application, and further
12 that the manager shall meet all other requirements of licensure, including, but not limited to, United
13 States citizenship or naturalization, passing a background investigation, being at least 21 years
14 of age, ~~being a suitable person, being of good morals and character,~~ and other requirements, all
15 as set forth in the code and the legislative rules, in order for the manager to be able to meet and
16 conduct any regulatory matters, including, but not limited to, licensure or enforcement matters
17 related to the applicant or licensee all in the interest of protecting public health and safety and
18 being a suitable applicant or licensee. In order to maintain active licensure, any change by a
19 licensee in any manager listed on an application must be made immediately to the commissioner,
20 in order to verify that the new manager meets licensure requirements;

21 (3) That the applicant and manager have ~~not never~~ (A) been convicted in this state or any
22 other state of any felony in the five years preceding the date of application or (B) other crime
23 involving moral turpitude, fraud, dishonesty, or deceit in the five years preceding the date of
24 application, or (C) been convicted of any felony in this or any other state court or any federal court
25 for a violation of alcohol-related distribution laws any state or federal liquor law, and if the applicant
26 is other than an individual, that none of its executive officers, other principal officers, partners, or
27 members, or any person owning, directly or indirectly, at least 20 percent of the outstanding stock,
28 partnership, or other interests in the applicant, has been convicted; and

29 (4) That the applicant and the manager, each is a United States citizen ~~of good moral~~
30 ~~character~~ and, if a naturalized citizen, when and where naturalized; and, if a corporation organized

31 and authorized to do business under the laws of this state, when and where incorporated, with
32 the name and address of each officer; that each officer is a citizen of the United States ~~and a~~
33 ~~person of good moral character~~; and if a firm, association, partnership, or limited partnership, that
34 each member is a citizen of the United States and, if a naturalized citizen, when and where
35 naturalized, each of whom must sign the application.

36 (b) An applicant and manager shall provide the commissioner any additional information
37 requested by the commissioner including, but not limited to, authorization to conduct a criminal
38 background and credit records check.

39 (c) Whenever a change occurs in any information provided to the commissioner, the
40 change shall immediately be reported to the commissioner in the same manner as originally
41 provided.

42 (d) The commissioner shall disqualify each bid submitted by an applicant under §60-3A-
43 10 of this code and no applicant shall be issued or eligible to hold a retail license under this article,
44 if:

45 (1) The applicant has been, within the five years preceding the date of application; (A)
46 convicted in this state of any felony or (B) convicted of a ~~other~~ crime involving fraud, dishonesty,
47 or ~~deceit moral turpitude~~ or (C) convicted of any felony in this or any other state court or any
48 federal court for a violation of alcohol-related distribution laws ~~any state or federal liquor law~~; or

49 (2) Any executive officer or other principal officer, partner, or member of the applicant, or
50 any person owning, directly or indirectly, at least 20 percent of the outstanding stock, partnership,
51 or other interests in the applicant, has been, within the five yeas preceding the date of application;
52 (A) convicted in this state of any felony or (B) convicted of a ~~other~~ crime involving fraud,
53 dishonesty, or ~~deceit moral turpitude~~ or (C) convicted of any felony in this or any other state court
54 or any federal court for a violation of alcohol-related distribution laws ~~any state or federal liquor~~
55 law.

56 (e) The commissioner shall not issue a retail license to an applicant which does not hold
57 a license issued pursuant to federal law to sell liquor at wholesale.

**§60-3A-17. Wholesale prices set by commissioner; retail licensees to purchase liquor from
state; transportation and storage; method of payment.**

1 (a) The commissioner shall fix wholesale prices for the sale of liquor, other than wine, to
2 retail licensees. The commissioner shall sell liquor, other than wine, to retail licensees according
3 to a uniform pricing schedule. The commissioner shall obtain, if possible, upon request, any liquor
4 requested by a retail licensee and those permitted to manufacture and sell liquor pursuant to
5 section three, article four of this chapter.

6 (b) Wholesale prices shall be established in order to yield a net profit for the General
7 Revenue Fund of not less than \$6,500,000 annually on an annual volume of business equal to
8 the average for the past three years. The net revenue derived from the sale of alcoholic liquors
9 shall be deposited into the General Revenue Fund in the manner provided in section seventeen,
10 article three of this chapter.

11 (c) Notwithstanding any provision of this code to the contrary, the commissioner shall
12 specify the maximum wholesale markup percentage which may be applied to the prices paid by
13 the commissioner for all liquor, other than wine, in order to determine the prices at which all liquor,
14 other than wine, will be sold to retail licensees. A retail licensee shall purchase all liquor, other
15 than wine, for resale in this state only from the commissioner, and the provisions of §60-6-12 and
16 §60-6-13 ~~of this code of this chapter~~ shall not apply to the transportation of the liquor: *Provided,*
17 That a retail licensee shall purchase wine from a wine distributor who is duly licensed under article
18 eight of this chapter. All liquor, other than wine, purchased by retail licensees shall be stored in
19 the state at the retail outlet or outlets operated by the retail licensee: *Provided, however,* That the
20 commissioner, in his or her discretion, may upon written request permit a retail licensee to store
21 liquor at a site other than the retail outlet or outlets.

22 (d) The sale of liquor by the commissioner to retail licensees shall be paid by electronic
23 funds transfer which shall be initiated by the commissioner on the business day following the retail
24 licensees order or by money order, certified check or cashier's check which shall be received by
25 the commissioner at least 24 hours prior to the shipping of the alcoholic liquors: *Provided*, That if
26 a retail licensee posts with the commissioner an irrevocable letter of credit or bond with surety
27 acceptable to the commissioner from a financial institution acceptable to the commissioner
28 guaranteeing payment of checks, then the commissioner may accept the retail licensee's checks
29 in an amount up to the amount of the letter of credit.

30 (e) (1) A retail licensee may not sell liquor to persons licensed under the provisions of
31 article seven of this chapter at less than ~~one hundred ten~~ 115 percent of the retail licensee's cost
32 as defined in §47-11A-6 of this code.

33 (2) A retail licensee may not sell liquor to the general public at less than 110 percent of
34 the retail licensee's cost as defined in §47-11A-6 of this code.

§60-3A-19. Limitation on amount to be sold.

1 [Repealed.]

ARTICLE 4. LICENSES.

§60-4-10. Notice of application for license.

1 [Repealed.]

§60-4-22. Wholesale representatives' licenses.

1 A person, firm or corporation may not be or act or serve as an agent, broker or salesman
2 selling or offering to sell or soliciting or negotiating the sale of alcoholic liquor to the commission
3 or to any distributor licensed pursuant to article eight of this chapter without first obtaining a license
4 so to do in accordance with the provisions of this section. Only salaried employees of distilleries,
5 manufacturers, producers or processors of alcoholic liquor may be licensed hereunder and no
6 person may be licensed hereunder who sells or offers to sell alcoholic liquor to the commission
7 or any distributor on a fee or commission basis. The commission shall be the licensing authority

8 and may ~~grant to persons of good moral character~~ for the license herein provided and may refuse
9 to grant such license to any person who has been, within the previous five years from the date of
10 the application; (1) convicted of a felony within ten years prior to his or her application for such
11 license; (2) convicted of a crime involving fraud, dishonesty, or deceit, or (3) convicted of a felony
12 crime for a violation of alcohol-relating distribution laws; refuse to grant, suspend, or revoke
13 licenses. Licenses shall be on an annual basis for the period from July 1, until June 30 next
14 following. New and renewal licenses shall be granted only upon verified application to the
15 commission presented on forms provided by the commission. Any person representing more than
16 one producer, manufacturer or distributor of alcoholic liquors shall file a separate application and
17 shall obtain a separate license for each such representation. The annual license fee shall be \$10
18 \$100. The fee for any license granted for the remainder of any license year between January 1,
19 and June 30 of the same calendar year shall be \$50.

20 ~~No person who is the father, mother, son, daughter, brother, sister, uncle, aunt, nephew~~
21 ~~or niece of a member of the commission or of any elected or appointed state official, county official~~
22 ~~or municipal official, or who is the spouse of any such person so related to a member of the~~
23 ~~commission or to any elected or appointive state official, county official or municipal official, may~~
24 ~~be granted a license. No member of the Legislature or the spouse of any such member may be~~
25 ~~granted a license. Nor may any member or officer of any political party executive committee of~~
26 ~~this state or the spouse of any such member or officer be granted a license.~~

27 In addition to all other information which the commission may require to be supplied on
28 the license application forms, each applicant shall be required to state his or her name and his or
29 her residence address and the name and business address of the producer, manufacturer or
30 distributor he or she represents; the name and address of each additional producer, manufacturer
31 or distributor of alcoholic liquors he or she represents; the monetary total of all alcoholic liquor
32 sales, if any, made by him or her to the commission or to any distributor licensed pursuant to
33 article eight of this chapter during the fiscal year preceding the license year for which he or she is

34 seeking a license; the monetary total of the gross income received by him or her on such sales,
35 if any, during such fiscal year; whether he or she has, during such fiscal year, made or given,
36 voluntarily or on request, any gift, contribution of money or property to any member or employee
37 of the commission or of any distributor licensed pursuant to article eight of this chapter or to or for
38 the benefit of any political party committee or campaign fund; and his or her relationship, if any,
39 by blood or marriage, to any member of the commission or to any elected or appointive state
40 official, county official or municipal official. All such applications shall be verified by oath of the
41 applicant and shall be prepared and filed in duplicate. All such applications and a current list of
42 all licensees hereunder shall be matters of public record and shall be available to public inspection
43 at the commission's offices at the State Capitol. Every licensee who ceases to be an agent,
44 broker, or salesman, as herein contemplated, shall so advise the commission in writing and such
45 person's name shall be immediately removed from the license list and his or her license shall be
46 canceled and terminated.

47 All persons licensed under this section shall be authorized representatives of the wineries,
48 farm wineries, distilleries, mini-distilleries, manufacturers, producers or processors of alcoholic
49 liquor they represent. A licensed person may not share, divide or split his or her salary with any
50 person other than his or her wife or some legal dependent, nor may he or she make any
51 contribution to any political party campaign fund in this state.

52 All licensees shall be subject to all other provisions of this chapter and to the lawful rules
53 promulgated by the commission. Licenses may be refused, suspended or revoked by the
54 commission for cause, including any of the applicable grounds of revocation specified in section
55 nineteen of this article. Provisions of this article relating to notice, hearing and appeals shall, to
56 the extent applicable, govern procedures on suspension and revocation of licenses hereunder.

57 Any person, firm or corporation violating any provision of this section, including knowingly
58 making of any false statement in a verified application for a license shall be guilty of a
59 misdemeanor offense and shall, upon conviction thereof, be fined not exceeding \$1,000 or

60 imprisoned in jail not exceeding twelve months, or be subject to both such fine and imprisonment
61 in the discretion of the court.

§60-4-23. License to operate a facility where exotic entertainment is offered; definitions; restrictions, regulations and prohibitions; prohibitions against minors; application, renewal, license fee, restrictions on transfer; effective date; legislative rules; unlawful acts and penalties imposed.

1 (a) For purposes of this section:

2 (1) "Exotic entertainment" means live nude dancing, nude service personnel or live nude
3 entertainment, and "nude" means any state of undress in which male or female genitalia or female
4 breasts are exposed.

5 (2) "Places set apart for traditional family-oriented naturism" means family nudist parks,
6 clubs and resorts chartered by the American association for nude recreation or the naturist
7 society, including all of their appurtenant business components, and also including places
8 temporarily in use for traditional family-oriented naturist activities.

9 (b) No person may operate any commercial facility where exotic entertainment is permitted
10 or offered unless such person is granted a license by the commissioner to operate a facility where
11 exotic entertainment may be offered. The provisions of this subsection apply whether or not
12 alcoholic liquor, wine or nonalcoholic beer is legally kept, served, sold, or dispensed in a facility,
13 or purchased for use in a facility, or permitted to be brought by others into a facility and whether
14 or not such person holds any other license or permit issued pursuant to chapter 60 of this code.

15 (c) A licensee is subject to all the regulatory provisions of §60-7-1 *et seq.* of this code
16 ~~chapter~~, whether or not the licensee is otherwise a private club. The commissioner shall have all
17 the powers and authorization granted under §60-7-1 *et seq.* of this code ~~chapter~~ to regulate,
18 restrict, and sanction a licensee under this section. No licensee may purchase, keep, sell, serve,
19 dispense, or purchase for use in a licensed facility, or permit others to bring into the facility, any

20 alcoholic liquor, wine, or nonintoxicating beer or nonintoxicating craft beer without having the
21 appropriate license ~~therefor~~. No licensee may operate a private club without being licensed
22 ~~therefor~~.

23 (d) No person or licensee may allow a person under the age of 18 years to perform as an
24 exotic entertainer. No person under the age of 21 years, other than a performing exotic
25 entertainer, may be allowed to be in a commercial facility on any day on which any exotic
26 entertainment is offered therein. No licensee may hold special nonalcoholic entertainment events
27 for persons under age 21 pursuant to the provisions of §60-7-8 of this code ~~chapter~~ in the licensed
28 facility.

29 ~~(e) Any person operating a commercial facility where exotic entertainment is offered on~~
30 ~~the effective date of this section may apply to the commissioner for a license to operate a facility~~
31 ~~where exotic entertainment may be offered. Applications must be filed with the commissioner on~~
32 ~~or before July 1, 2000; thereafter no application for license may be received by the commissioner.~~
33 ~~The commissioner may issue a license to a person complying with the provisions of this chapter.~~
34 ~~Upon application for renewal, the commissioner shall annually, on July 1, of each succeeding~~
35 ~~year, renew the license of any licensee then in compliance with the provisions of this chapter. The~~
36 ~~commissioner shall specify the form of application and information required of applicants and~~
37 ~~licensees. No license which has lapsed, been revoked or expired without renewal may be~~
38 ~~reissued.~~

39 (fe) A person to whom a license is issued or renewed under the provisions of this section
40 shall pay annually to the commissioner a license fee of \$3,000. A municipal corporation wherein
41 any such licensee is located shall issue a municipal license to any person to whom the
42 commissioner has issued a license and may impose a license fee not in excess of the state license
43 fee.

44 (gf) A person shall not sell, assign, or otherwise transfer a license without the prior written
45 approval of the commissioner. For purposes of this section, the merger of a licensee or the sale
46 of more than 50 percent of the outstanding stock of or partnership interests in the licensee shall
47 be deemed to be a sale, assignment, or transfer of a license under this section. A license shall
48 not be transferred to another location, except within the county of original licensure. A transferee
49 of a licensed facility may apply for reissuance of the transferor's license if the transferee applicant
50 otherwise qualifies for a license. The commissioner is authorized to propose the promulgation of
51 a legislative rule in accordance with the provisions of chapter 29A of this code, to implement the
52 provisions of this subsection.

53 ~~(h) This section shall be effective upon passage by the Legislature in the year 2000. On~~
54 ~~or before May 1, 2000, the commissioner shall promulgate an emergency legislative rule pursuant~~
55 ~~to the provisions of chapter twenty nine a of this code to effectuate the provisions of this section,~~
56 ~~and shall propose a legislative rule therefor, for consideration by the Legislature, prior to~~
57 ~~December 31, 2000.~~

58 (ig) Any person who violates any provision of this section, or principal of a firm or
59 corporation which violates any provision of this section, or licensee, agent, employee, or member
60 of any licensee who violates any provision of this section, or who violates any of the provisions of
61 §60-7-12 of this code ~~chapter~~, on the premises of a licensed facility, is guilty of a misdemeanor
62 and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$3,000, or
63 imprisoned for a period not to exceed one year, or both so fined and imprisoned.

64 (jh) The provisions of this section do not apply to places set apart for traditional family-
65 oriented naturist activities.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

§60-6-24. Requirement for posting informational sign.

1 ~~Each store or outlet controlled or operated by the state Alcohol Beverage Control~~
2 ~~Commission, and any store, supermarket, club, restaurant, or Any licensee licensed under this~~

3 ~~chapter to sell alcoholic liquors, including liquor, wine, hard cider, other facility selling alcoholic~~
4 ~~beverages or nonintoxicating beer, or nonintoxicating craft beer for either on-premise on-premises~~
5 ~~or off-premise off-premises~~ consumption, shall post in an open and prominent place within such
6 ~~the~~ establishment a blood-alcohol chart containing information showing the estimated percent of
7 alcohol in the blood by the number of drinks in relation to body weight and time of consumption,
8 as follows:

9 FORM OMITTED

13 FORM OMITTED

16 ~~The size of display and location of said blood alcohol chart shall be prescribed by the~~
17 ~~commissioner, by rule and regulation as provided in the chart available on the Commissioner's~~
18 ~~website.~~ Enforcement of the posting provisions of this section shall be carried out by the ~~West~~
19 ~~Virginia nonintoxicating beer commissioner~~ Commissioner in establishments which are for all
20 licensees required to post such the notice. ~~but are not subject to the supervision of the West~~
21 ~~Virginia Alcohol Beverage Control Commissioner~~

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-2. Definitions; authorizations; requirements for certain licenses.

1 Unless the context in which used clearly requires a different meaning, as used in this
2 article:

3 (a) "Applicant" means a private club applying for a license under the provisions of this
4 article.

5 (b) "Code" means the official Code of West Virginia, 1931, as amended.

6 ~~(c)~~ “Commissioner” means the West Virginia Alcohol Beverage Control Commissioner.

7 ~~(d)~~ “Licensee” means the holder of a license to operate a private club granted under this
8 article, which remains unexpired, unsuspended, and unrevoked.

9 ~~(e)~~ “Private club” means any corporation or unincorporated association which either: (1)
10 Belongs to or is affiliated with a nationally recognized fraternal or veterans’ organization which is
11 operated exclusively for the benefit of its members, which pays no part of its income to its
12 shareholders or individual members, which owns or leases a building or other premises to which
13 club are admitted only duly elected or approved dues-paying members in good standing of the
14 corporation or association and their guests while in the company of a member and to which club
15 the general public is not admitted, and which club maintains in the building or on the premises a
16 suitable kitchen and dining facility with related equipment for serving food to members and their
17 guests; (2) is a nonprofit social club, which is operated exclusively for the benefit of its members,
18 which pays no part of its income to its shareholders or individual members, which owns or leases
19 a building or other premises to which club are admitted only duly elected or approved dues-paying
20 members in good standing of the corporation or association and their guests while in the company
21 of a member and to which club the general public is not admitted, and which club maintains in the
22 building or on the premises a suitable kitchen and dining facility with related equipment for serving
23 food to members and their guests; (3) is organized and operated for legitimate purposes which
24 has at least 100 duly elected or approved dues-paying members in good standing, which owns
25 or leases a building or other premises, including any vessel licensed or approved by any federal
26 agency to carry or accommodate passengers on navigable waters of this state, to which club are
27 admitted only duly elected or approved dues-paying members in good standing of the corporation
28 or association and their guests while in the company of a member and to which club the general
29 public is not admitted, and which club maintains in the building or on the premises a suitable
30 kitchen and dining facility with related equipment and employs a sufficient number of persons for
31 serving meals to members and their guests; or (4) is organized for legitimate purposes and owns

32 or leases a building or other delimited premises in any state, county, or municipal park or at any
33 airport, in which building or premises a club has been established, to which club are admitted only
34 duly elected and approved dues-paying members in good standing and their guests while in the
35 company of a member and to which club the general public is not admitted, and which maintains
36 in connection with the club a suitable kitchen and dining facility and related equipment and
37 employs a sufficient number of persons for serving meals in the club to the members and their
38 guests.

39 “Private bakery” means an applicant for a private club or licensed private club licensee
40 that has a primary function of operating a food preparation business that produces baked goods,
41 including brownies, cookies, cupcakes, confections, muffins, breads, cakes, wedding cakes, and
42 other baked goods. The applicant or licensee desires to sell baked goods infused with liquor,
43 wine, or nonintoxicating beer or nonintoxicating craft beer either: (i) in the icing, syrup, drizzle, or
44 some other topping; (ii) as an infusion where the alcohol is not processed or cooked out of the
45 baked goods; or (iii) the alcohol can be added by the purchaser from an infusion packet containing
46 alcohol no greater than 10 milliliters; *Provided*, That any bakery wishing to sell items less than
47 one-half a percent are considered nonalcoholic and does not need a license pursuant to this
48 section. This applicant or licensee may not sell liquor, wine, or nonintoxicating beer or
49 nonintoxicating craft beer for on or off premises consumption unless properly licensed for such
50 sales as a private club restaurant. This applicant or licensee may sell the baked goods with alcohol
51 added for on and off premises consumption. Further, the applicant or licensee shall meet the
52 criteria set forth in this subsection which:

53 (1) Has at least 50 members;

54 (2) Operates a kitchen that produces baked goods, as noted above, including at least: (A)
55 A baking oven and a four-burner range or hot plate; (B) a sink with hot and cold running water;
56 (C) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer, which
57 is not used for alcohol cold storage; (D) baking utensils and pans, kitchen utensils and other food

58 consumption apparatus, as determined by the commissioner; and (E) food fit for human
59 consumption available to be served during all hours of operation on the licensed premises;

60 (3) Maintains, at any one time, \$750 of food inventory capable of being prepared in the
61 private bakery's kitchen. In calculating the food inventory, the commissioner shall include
62 television dinners, bags of chips or similar products, microwavable food or meals, frozen meals,
63 prepackaged foods, baking items such as flour, sugar, icing and other confectionary items, or
64 canned prepared foods;

65 (4) Uses an age verification system approved by the commissioner for the purpose of
66 verifying that persons under the age of 21 who are in the private bakery are not served products
67 containing alcohol, and a person under 21 years of age may purchase products sold by the private
68 bakery that do not contain any alcohol; and

69 (5) Meets and is subject to all other private club requirements.

70 "Private cigar shop" means an applicant for a private club or licensed private club licensee
71 that has a primary function of operating a cigar shop for sales of premium cigars for consumption
72 on or off the licensed premises. Where permitted by law, indoor on-premises cigar consumption
73 is permitted with a limited food menu (food requirements can be met by utilizing a private caterer)
74 for members and guests while the private club applicant or licensee is selling and serving liquor,
75 wine, or nonintoxicating beer or nonintoxicating craft beer for on-premises consumption. Further,
76 the applicant or licensee shall meet the criteria set forth in this subsection which:

77 (1) Has at least 50 members;

78 (2) Operates a cigar shop and bar with a kitchen, including at least: (A) A two-burner hot
79 plate, air fryer, or microwave oven; (B) a sink with hot and cold running water; (C) a 17 cubic foot
80 refrigerator or freezer, or some combination of a refrigerator and freezer, which is not used for
81 alcohol cold storage; (D) kitchen utensils and other food consumption apparatus, as determined
82 by the commissioner; and (E) food fit for human consumption available to be served during all
83 hours of operation on the licensed premises;

84 (3) Maintains, at any one time, \$500 of food inventory capable of being prepared in the
85 private club bar's kitchen or has on hand at least \$150 in food provided by a private caterer. In
86 calculating the food inventory, the commissioner shall include television dinners, bags of chips or
87 similar products, microwavable food or meals, frozen meals, prepackaged foods, or canned
88 prepared foods;

89 (4) Uses an age verification system approved by the commissioner for the purpose of
90 verifying that persons under the age of 21 may not be served any liquor, wine, nonintoxicating
91 beer or nonintoxicating craft beer, persons under the age of 18 who are in the private cigar shop
92 are accompanied by a parent or legal guardian, and if a person under 18 years of age is not
93 accompanied by a parent or legal guardian that person may not be admitted as a guest; and

94 (5) Meets and is subject to all other private club requirements.

95 "Private caterer" means a any licensed entity ~~private club restaurant~~ authorized by the
96 commissioner to cater and serve food and sell and serve alcoholic liquors, or non-intoxicating
97 beer, or non-intoxicating craft beer. A private caterer shall purchase wine sold or served at a
98 catering event from a wine distributor. A private caterer shall purchase nonintoxicating beer and
99 nonintoxicating craft beer sold or served at the catering event from a licensed beer distributor. A
100 private caterer shall purchase liquor from a retail liquor outlet authorized to sell in the market zone,
101 where the catering event is held. The private caterer or the persons or entity holding the catering
102 event shall:

- 103 (1) Have at least 10 members and guests attending the catering event;
- 104 (2) Have obtained an open container waiver or have otherwise been approved by a
105 municipality or county in which the event is being held;
- 106 (3) Operate a private club restaurant on a daily operating basis;
- 107 (4) Only use its employees, independent contractors, or volunteers to sell and serve
108 alcoholic liquors who have received certified training in verifying the legal identification, the age
109 of a purchasing person, and the signs of visible, noticeable, and physical intoxication;

110 (5) Provide to the commissioner, at least 7 seven days before the event is to take place:

111 (A) The name and business address of the unlicensed private venue where the private
112 caterer is to provide food and alcohol for a catering event;

113 (B) The name of the owner or operator of the unlicensed private venue;

114 (C) A copy of the contract or contracts between the private caterer, the person contracting
115 with the caterer, and the unlicensed private venue;

116 (D) A floorplan of the unlicensed private venue to comprise the private catering premises,
117 which shall only include spaces in buildings or rooms of an unlicensed private venue where the
118 private caterer has control of the space for a set time period where the space safely accounts for
119 the ingress and egress of the stated members and guests who will be attending the private
120 catering event at the catering premises. The unlicensed private venue's floorplan during the set
121 time period as stated in the contract shall comprise the private caterer's licensed premises, which
122 is authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating
123 beer and nonintoxicating craft beer, and wine throughout the licensed private catering premises;
124 *Provided*, That the unlicensed private venue shall: (i) Be inside a building or structure, (ii) have
125 other facilities to prepare and serve food and alcohol, (iii) have adequate restrooms, and sufficient
126 building facilities for the number of members and guests expected to attend the private catering
127 event, and (iv) otherwise be in compliance with health, fire, safety, and zoning requirements;

128 (6) Not hold more than 15 private catering events per calendar year. Upon reaching the
129 16th event, the unlicensed venue shall obtain its own private club license;

130 (7) Submit to the commissioner, evidence that any noncontiguous area of an unlicensed
131 venue is within 150 feet of the private caterer's submitted floorplan and may submit a floorplan
132 extension for authorization to permit alcohol and food at an outdoor event;

133 (8) Meet and be subject to all other private club requirements; and

134 (9) Use an age verification system approved by the commissioner.

135 ~~(g)~~ “Private club bar” means an applicant for a private club or licensed private club licensee
136 that has a primary function for the use of the licensed premises as a bar for the sale and
137 consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer when
138 licensed for ~~such~~ those sales, while providing a limited food menu for members and guests, and
139 meeting the criteria set forth in this subsection which:

140 (1) Has at least 100 members;

141 (2) Operates a bar with a kitchen, including at least: (A) A two-burner hot plate, air fryer,
142 or microwave oven; (B) a sink with hot and cold running water; (C) a 17 cubic foot refrigerator or
143 freezer, or some combination of a refrigerator and freezer, which is not used for alcohol cold
144 storage; (D) kitchen utensils and other food consumption apparatus, as determined by the
145 commissioner; and (E) food fit for human consumption available to be served during all hours of
146 operation on the licensed premises;

147 (3) Maintains, at any one time, \$500 of food inventory capable of being prepared in the
148 private club bar’s kitchen. In calculating the food inventory, the commissioner shall include
149 television dinners, bags of chips or similar products, microwavable food or meals, frozen meals,
150 prepackaged foods, or canned prepared foods;

151 (4) Uses an age verification system approved by the commissioner for the purpose of
152 verifying that persons under the age of 18 who are in the private club bar are accompanied by a
153 parent or legal guardian, and if a person under 18 years of age is not accompanied by a parent
154 or legal guardian that person may not be admitted as a guest; and

155 (5) Meets and is subject to all other private club requirements.

156 “Private food truck” means an applicant for a private club, licensed private club licensee,
157 or licensed private manufacturer’s club licensee that has a primary function of operating a food
158 preparation business using an industrial truck, van, or trailer to prepare food and meals while
159 utilizing a propane or electric generator powered kitchen, for sale at various locations within the
160 state. The private food truck applicant shall obtain county or municipal approval to operate for

161 food and liquor, wine, and nonintoxicating beer or nonintoxicating craft beer sales and service,
162 while displaying or otherwise making available a food menu for members and guests. The private
163 food truck applicant shall meet the criteria set forth in this subsection which:

164 (1) Has at least 10 members;

165 (2) Operates with a kitchen, including at least: (A) A two-burner hot plate, air fryer, fryer,
166 grill, or microwave oven; (B) a sink with hot and cold running water; (C) at least a 10 cubic foot
167 refrigerator or freezer, or some combination of a refrigerator and freezer, which is not used for
168 alcohol cold storage; and (D) plastic or metal kitchen utensils and other food consumption
169 apparatus, as determined by the commissioner;

170 (3) Maintains, at any one time, \$500 of food inventory that is fit for human consumption
171 and capable of being prepared and served from the private food truck's kitchen during all hours
172 of operation;

173 (4) Shall be sponsored, endorsed, or approved by the governing body or its designee of
174 the county or municipality in which the private food truck is to be located and operate, and further
175 each location shall have a bounded and defined area and set hours for private food truck
176 operations, sales, and consumption of alcohol that are not greater than a private club's hours of
177 operation;

178 (5) Provides the commissioner with a list of all locations, including a main business
179 location, where the private food truck operates, and is approved for sales pursuant to subdivision
180 (4) above, and update the commissioner when new locations are approved by a county or
181 municipality;

182 (6) Requires all nonintoxicating beer and nonintoxicating craft beer sold, furnished,
183 tendered, or served pursuant to the license created by this section to be purchased from the
184 licensed distributor, all in accordance with §11-16-1 et seq. of this code.

185 (7) Requires wine or hard cider sold, furnished, tendered, or served pursuant to the license
186 created by this section to be purchased from a licensed distributor, winery, or farm winery in
187 accordance with §60-8-1 et seq. of this code.

188 (8) Requires liquor sold, furnished, tendered, or served pursuant to the license created by
189 this section shall be purchased from a licensed retail liquor outlet in the market zone or contiguous
190 market zone, all in accordance with §60-3A-1 et seq. of this code.

191 (9) A licensee authorized by this section shall utilize bona fide employees to sell, furnish,
192 tender, or serve the nonintoxicating beer, nonintoxicating craft beer, wine, or liquor.

193 (10) A brewer, resident brewer, winery, farm winery, distillery, mini-distillery, or micro-
194 distillery may obtain a private food truck license;

195 (11) Licensed representatives of a brewer, resident brewer, beer distributor, wine
196 distributor, wine supplier, winery, farm winery, distillery, mini-distillery, micro-distillery, and liquor
197 broker representatives may attend a location where a private food truck is located and discuss
198 their respective products but may not engage in the selling, furnishing, tendering, or serving of
199 any nonintoxicating beer, nonintoxicating craft beer, wine, or liquor.

200 (12) Uses an age verification system approved by the commissioner for the purpose of
201 verifying that persons under the age of 21 are not served liquor, wine, nonintoxicating beer or
202 nonintoxicating craft beer, but any person under the age of 21 may purchase and be served food
203 or other nonalcoholic drinks;

204 (13) Obtains all permits required by §60-6-12 of this code; and

205 (14) Meets and is subject to all other applicable private club requirements.

206 (h) "Private club restaurant" means an applicant for a private club or licensed private club
207 licensee that has a primary function of using the licensed premises as a restaurant for serving
208 freshly prepared meals and dining in the restaurant area. The private club restaurant may have a
209 bar area separate from or commingled with the restaurant, seating requirements for members

210 and guests ~~must~~ shall be met by the restaurant area. The applicant for a private club restaurant
211 license shall meet the criteria set forth in this subsection which:

212 (1) Has at least 100 members;

213 (2) Operate a restaurant and full kitchen with at least: (A) Ovens and four-burner ranges;
214 (B) refrigerators or freezers, or some combination of refrigerators and freezers, greater than 50
215 cubic feet, or a walk-in refrigerator or freezer; (C) other kitchen utensils and apparatus, as
216 determined by the commissioner; and (D) freshly prepared food fit for human consumption
217 available to be served during all hours of operation on the licensed premises;

218 (3) Maintains, at any one time, \$1,000 of fresh food inventory capable of being prepared
219 in the private club restaurant's full kitchen. In calculating the food inventory, the commissioner
220 may not include television dinners, bags of chips, or similar products, microwavable meals, frozen
221 meals, prepackaged foods, or canned prepared foods;

222 (4) Uses an age verification system approved by the commissioner for the purpose of
223 verifying that persons under 18 years of age who are in the bar area of a private club restaurant
224 are accompanied by a parent or legal guardian. The licensee may not seat a person in the bar
225 area who is under the age of 18 years and who is not accompanied by a parent or legal guardian,
226 but may allow that person, as a guest, to dine for food and nonalcoholic beverage purposes in
227 the restaurant area of a private club restaurant:

228 (5) May uncork and serve members and guests up to two bottles of wine that a member
229 purchased from a wine retailer, wine specialty shop, an applicable winery or farm winery when
230 licensed for retail sales, or a licensed wine direct shipper when the purchase is for personal use
231 and, not for resale. The licensee may charge a corkage fee of up to \$10 dollars per bottle. In no
232 event may a member or a group of members and guests exceed two sealed bottles or containers
233 of wine to carry onto the licensed premises for uncorking and serving by the private club restaurant
234 and for personal consumption by the member and guests. A member or guest may cork and

235 reseal any unconsumed wine bottles as provided in §60-8-3(j) of this code and the legislative
236 rules, for carrying unconsumed wine off the licensed premises;

237 (6) ~~Must~~ Shall have at least two restrooms for members and their guests: *Provided*, That
238 this requirement may be waived by the local health department upon supplying a written waiver
239 of the requirement to the commissioner: *Provided, however*, That the requirement may also be
240 waived for a historic building by written waiver supplied to commissioner of the requirement from
241 the historic association or district with jurisdiction over a historic building: *Provided, further* That
242 in no event ~~shall~~ may a private club restaurant have less than one restroom; and

243 (7) Shall meet and be subject to all other private club requirements.

244 (†) “Private manufacturer club” means an applicant for a private club or licensed private
245 club licensee which is also licensed as a distillery, mini-distillery, micro-distillery, winery, farm
246 winery, brewery, or resident brewery that manufacturers liquor, wine, nonintoxicating beer, or
247 nonintoxicating craft beer, which may be sold, served, and furnished to members and guests for
248 on-premises consumption at the licensee’s licensed premises and in the area or areas denoted
249 on the licensee’s floorplan, and which meets the criteria set forth in this subsection and which:

250 (1) Has at least 100 members;

251 (2) Offers tours, may offer complimentary samples, and may offer space as a conference
252 center or for meetings;

253 (3) Operates a restaurant and full kitchen with ovens, four-burner ranges, a refrigerator,
254 or freezer, or some combination of a refrigerator and freezer, and other kitchen utensils and
255 apparatus as determined by the commissioner on the licensed premises and serves freshly
256 prepared food at least 15 hours per week;

257 (4) Maintains, at any one time, \$500 of fresh food inventory capable of being prepared in
258 the private manufacturer club’s full kitchen. In calculating the food inventory, the commissioner
259 may not include television dinners, bags of chips, or similar products, microwavable meals, frozen
260 meals, prepackaged foods, or canned prepared foods;

261 (5) Owns or leases, controls, operates, and uses acreage amounting to at least one acre
262 which is contiguous bounded or fenced real property that would be listed on the licensee's
263 floorplan and may be used for large events such as weddings, reunions, conferences, meetings,
264 and sporting or recreational events;

265 (6) Lists the entire property from subdivision (5) of this subsection and all adjoining
266 buildings and structures on the private manufacturer club's floorplan that would comprise the
267 licensed premises, which would be authorized for the lawful sale, service, and consumption of
268 alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, and wine throughout the
269 licensed premises, whether these activities were conducted in a building or structure or outdoors
270 while on the private manufacturer club's licensed premises, and as noted on the private
271 manufacturer club's floorplan;

272 (7) Identifies a person, persons, an entity, or entities who or which has right, title, and
273 ownership or lease interest in the real property, buildings, and structures located on the proposed
274 licensed premises;

275 (8) Uses an age verification system approved by the commissioner; and

276 (9) Meets and is subject to all other private club requirements.

277 (j) "Private fair and festival" means an applicant for a private club or a licensed private
278 club meeting the requirements of §60-7-8a of this code for a temporary event, and the criteria set
279 forth in this subsection which:

280 (1) Has at least 100 members;

281 (2) Has been sponsored, endorsed, or approved, in writing, by the governing body (or its
282 duly elected or appointed officers) of either the municipality or of the county in which the festival,
283 fair, or other event is to be conducted;

284 (3) Prepares, provides, or engages a food vendor to provide adequate freshly prepared
285 food or meals to serve its stated members and guests who will be attending the temporary festival,

286 fair, or other event, and further shall provide any such documentation or agreements ~~of such~~ to
287 the commissioner prior to approval;

288 (4) Does not use third-party entities or individuals to purchase, sell, furnish, or serve
289 alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer;

290 (5) Provides adequate restroom facilities, whether permanent or portable, to serve the
291 stated members and guests who will be attending the festival, fair, or other event;

292 (6) Provides a floorplan for the proposed premises with a defined and bounded area to
293 safely account for the ingress and egress of stated members and guests who will be attending
294 the festival, fair, or other event;

295 (7) Uses an age verification system approved by the commissioner; and

296 (8) Meets and is subject to all other private club requirements.

297 ~~(k)~~ "Private hotel" means an applicant for a private club or licensed private club licensee
298 meeting the criteria set forth in this subsection which:

299 (1) Has at least 2,000 members;

300 (2) Offers short-term, daily rate accommodations or lodging for members and their guests
301 amounting to at least 30 separate bedrooms, and also offers a conference center for meetings;

302 (3) Operates a restaurant and full kitchen with ovens, four-burner ranges, walk-in freezers,
303 and other kitchen utensils and apparatus as determined by the commissioner on the licensed
304 premises and serves freshly prepared food at least 20 hours per week;

305 (4) Maintains, at any one time, \$2,500 of fresh food inventory capable of being prepared
306 in the private hotel's full kitchen, and in calculating the food inventory the commissioner may not
307 include microwavable, frozen, or canned foods;

308 (5) Owns or leases, controls, operates, and uses acreage amounting to more than one
309 acre but fewer than three acres, which are contiguous acres of bounded or fenced real property
310 which would be listed on the licensee's floorplan and would be used for hotel and conferences

311 and large contracted for group-type events such as weddings, reunions, conferences, meetings,
312 and sporting or recreational events;

313 (6) Lists the entire property from subdivision (5) of this subsection and all adjoining
314 buildings and structures on the private hotel's floorplan which would comprise the licensed
315 premises, which would be authorized for the lawful sales, service, and consumption of alcoholic
316 liquors throughout the licensed premises whether these activities were conducted in a building or
317 structure or outdoors while on the private hotel's licensed premises and as noted on the private
318 hotel's floorplan;

319 (7) Has an identified person, persons, or entity that has right, title, and ownership or lease
320 interest in the real property buildings and structures located on the proposed licensed premises;

321 (8) Uses an age verification system approved by the commissioner; ~~and~~

322 (9) Meets and is subject to all other private club requirements; and

323 (10) May provide members and guests who are verified by proper form of identification to
324 be 21 years of age or older to have secure access to an in-room mini-bar in their rented short-
325 term accommodation including limited amounts of liquor, wine, and nonintoxicating beer or
326 nonintoxicating craft beer and any combination of canned or packaged food fit for consumption.
327 All markups, fees, and taxes shall be charged on the sale of nonintoxicating beer, nonintoxicating
328 craft beer, wine, and liquor. All nonintoxicating beer or nonintoxicating craft beer available for sale
329 shall be purchased from the licensed distributor in the area where licensed. All wine or hard cider
330 available for sale shall be purchased from a licensed wine distributor or authorized farm winery.
331 All liquor available for sale shall be purchased from the licensed retail liquor outlet in the market
332 zone of the licensed premises. The mini-bar shall be checked daily and replenished as needed to
333 benefit the member and guest.

334 (†) "Private resort hotel" means an applicant for a private club or licensed private club
335 licensee meeting the criteria set forth in this subsection which:

336 (1) Has at least 5,000 members;

337 (2) Offers short-term, daily rate accommodations or lodging for members and their guests
338 amounting to at least 50 separate bedrooms;

339 (3) Operates a restaurant and full kitchen with ovens, six-burner ranges, walk-in freezers,
340 and other kitchen utensils and apparatus as determined by the commissioner on the licensed
341 premises and serves freshly prepared food at least 25 hours per week;

342 (4) Maintains, at any one time, \$5,000 of fresh food inventory capable of being prepared
343 in the private resort hotel's full kitchen, and in calculating the food inventory the commissioner
344 may not include microwavable, frozen, or canned foods;

345 (5) Owns or leases, controls, operates, and uses acreage amounting to at least 10
346 contiguous acres of bounded or fenced real property which would be listed on the licensee's
347 floorplan and would be used for destination, resort, and large contracted for group-type events
348 such as weddings, reunions, conferences, meetings, and sporting or recreational events;

349 (6) Lists the entire property from subdivision (5) of this subsection and all adjoining
350 buildings and structures on the private resort hotel's floorplan which would comprise the licensed
351 premises, which would be authorized for the lawful sales, service, and consumption of alcoholic
352 liquors throughout the licensed premises whether these activities were conducted in a building or
353 structure or outdoors while on the private resort hotel's licensed premises and as noted on the
354 private resort hotel's floorplan;

355 (7) Has an identified person, persons, or entity that has right, title, and ownership or lease
356 interest in the real property, buildings, and structures located on the proposed licensed premises;

357 (8) Uses an age verification system approved by the commissioner;

358 (9) Meets and is subject to all other private club requirements; ~~and~~

359 (10) May have a separately licensed resident brewer with a brewpub license inner-
360 connected via a walkway, doorway, or entryway, all as determined and approved by the
361 commissioner, for limited access during permitted hours of operation for tours and complimentary
362 samples at the resident brewery; and

363 (11) May provide members and guests who are verified by proper form of identification to
364 be 21 years of age or older to have access to an in-room mini-bar in their rented short-term
365 accommodation including limited amounts of liquor, wine, and nonintoxicating beer or
366 nonintoxicating craft beer and any combination of canned or packaged food fit for consumption.
367 All markups, fees, and taxes shall be charged on the sale of nonintoxicating beer, nonintoxicating
368 craft beer, wine, and liquor. All nonintoxicating beer or nonintoxicating craft beer available for sale
369 shall be purchased from the licensed distributor in the area where licensed. All wine or hard cider
370 available for sale shall be purchased from a licensed wine distributor or authorized farm winery.
371 All liquor available for sale shall be purchased from the licensed retail liquor outlet in the market
372 zone of the licensed premises. The mini-bar shall be checked daily and replenished as needed to
373 benefit the member and guest.

374 ~~(m)~~ "Private golf club" means an applicant for a private club or licensed private club
375 licensee meeting the criteria set forth in this subsection which:

376 (1) Has at least 100 members;

377 (2) Maintains at least one 18-hole golf course with separate and distinct golf playing holes,
378 not reusing nine golf playing holes to comprise the 18 golf playing holes, and a clubhouse;

379 (3) Operates a restaurant and full kitchen with ovens, as determined by the commissioner,
380 on the licensed premises and serves freshly prepared food at least 15 hours per week;

381 (4) Owns or leases, controls, operates, and uses acreage amounting to at least 80
382 contiguous acres of bounded or fenced real property which would be listed on the private golf
383 club's floorplan and could be used for golfing events and large contracted for group-type events
384 such as weddings, reunions, conferences, meetings, and sporting or recreational events;

385 (5) Lists the entire property from subdivision (4) of this subsection and all adjoining
386 buildings and structures on the private golf club's floorplan which would comprise the licensed
387 premises, which would be authorized for the lawful sales, service, and consumption of alcoholic
388 liquors throughout the licensed premises whether these activities were conducted in a building or

389 structure or outdoors while on the private golf club's licensed premises and as noted on the private
390 golf club's floorplan;

391 (6) Has an identified person, persons, or entity that has right, title, and ownership interest
392 in the real property, buildings, and structures located on the proposed licensed premises;

393 (7) Uses an age verification system approved by the commissioner; and

394 (8) Meets and is subject to all other private club requirements.

395 ~~(A)~~ "Private nine-hole golf course" means an applicant for a private club or licensed private
396 club licensee meeting the criteria set forth in this subsection which:

397 (1) Has at least 50 members;

398 (2) Maintains at least one nine-hole golf course with separate and distinct golf playing
399 holes;

400 (3) Operates a restaurant and full kitchen with ovens, as determined by the commissioner,
401 on the licensed premises and serves freshly prepared food at least 15 hours per week;

402 (4) Owns or leases, controls, operates, and uses acreage amounting to at least 30
403 contiguous acres of bounded or fenced real property which would be listed on the private nine-
404 hole golf course's floorplan and could be used for golfing events and large contracted for group-
405 type events such as weddings, reunions, conferences, meetings, and sporting or recreational
406 events;

407 (5) Lists the entire property from subdivision (4) of this subsection and all adjoining
408 buildings and structures on the private nine-hole golf course's floorplan which would comprise the
409 licensed premises, which would be authorized for the lawful sales, service, and consumption of
410 alcoholic liquors throughout the licensed premises whether these activities were conducted in a
411 building or structure or outdoors while on the private nine-hole golf course's licensed premises
412 and as noted on the private nine-hole golf course's floorplan;

413 (6) Has an identified person, persons, or entity that has right, title, and ownership interest
414 in the real property buildings and structures located on the proposed licensed premises;

415 (7) Uses an age verification system approved by the commissioner; and

416 (8) Meets and is subject to all other private club requirements.

417 ~~(e)~~ "Private tennis club" means an applicant for a private club or licensed private club
418 licensee meeting the criteria set forth in this subsection which:

419 (1) Has at least 100 members;

420 (2) Maintains at least four separate and distinct tennis courts, either indoor or outdoor, and
421 a clubhouse or similar facility;

422 (3) Has a restaurant and full kitchen with ovens, as determined by the commissioner, on
423 the licensed premises and is capable of serving freshly prepared food;

424 (4) Owns or leases, controls, operates, and uses acreage amounting to at least two
425 contiguous acres of bounded or fenced real property which would be listed on the private tennis
426 club's floorplan and could be used for tennis events and large events such as weddings, reunions,
427 conferences, tournaments, meetings, and sporting or recreational events;

428 (5) Lists the entire property from subdivision (4) of this subsection and all adjoining
429 buildings and structures on the private tennis club's floorplan that would comprise the licensed
430 premises, which would be authorized for the lawful sales, service, and consumption of alcoholic
431 liquors throughout the licensed premises whether these activities were conducted in a building or
432 structure or outdoors while on the private tennis club's licensed premises and as noted on the
433 private tennis club's floorplan;

434 (6) Has identified a person, persons, an entity, or entities who or which has right, title, and
435 ownership interest in the real property buildings and structures located on the proposed licensed
436 premises;

437 (7) Meets and is subject to all other private club requirements; and

438 (8) Uses an age verification system approved by the commissioner.

439 "Private college sports stadium" means an applicant for a private club or licensed private
440 club licensee that operates a college or university stadium for Division I, II, or III and involves a

441 college or university that is a member of the National Collegiate Athletic Association, or its
442 successor, and uses the facility for football, basketball, baseball, soccer, or other Division I, II, or
443 III sports, reserved weddings, reunions, conferences, meetings, concerts, or other special events
444 and does not maintain daily or regular operating hours as a bar or restaurant. The licensee may
445 sell alcoholic liquors when conducting or temporarily hosting noncollegiate sporting events. This
446 license may be issued in the name of the National Collegiate Athletic Association Division I, II, or
447 III college or university or the name of the primary food and beverage vendor under contract with
448 that college or university. All alcohol sales shall take place within the confines of the college
449 stadium: *Provided*, That any outside area approved for alcohol sales shall be surrounded by a
450 fence or other barrier prohibiting entry except upon the college or university's express permission,
451 and under the conditions and restrictions established by the college or university, so that the
452 alcohol sales area is closed in order to prevent entry and access by the general public. Further
453 the applicant shall:

454 (A) Have at least 100 members;

455 (B) Maintain an open air or closed air stadium venue primarily used for sporting events,
456 such as football, basketball, baseball, soccer, or other Division I, II, or III sports, and also
457 weddings, reunions, conferences, meetings, concerts, or other events where parties shall reserve
458 the college stadium venue in advance of the event;

459 (C) Operate a restaurant and full kitchen with ovens and equipment that is at least
460 equivalent to that of a private club restaurant on the licensed premises and capable of serving
461 freshly prepared food, or meals to serve its stated members, guests, and patrons who will be
462 attending the event at the private college sports stadium;

463 (D) Own or lease, control, operate, and use acreage amounting to at least one contiguous
464 acre of bounded or fenced real property which would be listed on the private college stadium's
465 floorplan and could be used for contracted for temporary non-collegiate sporting events, group-
466 type weddings, reunions, conferences, meetings, concerts, or other events;

467 (E) List the entire property from subdivision (4) of this subsection and all adjoining
468 buildings and structures on the private college sports stadium's floorplan which would comprise
469 the licensed premises, which would be authorized for the lawful sales, service, and consumption
470 of alcoholic liquors throughout the licensed premises whether these activities were conducted in
471 a building or structure or outdoors while on the private college sports stadium's licensed premises
472 and as noted on the private college sports stadium's floorplan;

473 (F) Have an identified person, persons, or entity that has right, title, and ownership interest
474 in the real property buildings and structures located on the proposed licensed premises;

475 (G) Meet and be subject to all other private club requirements; and

476 (H) Use an age verification system approved by the commissioner.

477 ~~(P)~~ "Private professional sports stadium" means an applicant for a private club or licensed
478 private club licensee that is only open for professional sporting events when ~~such~~ the events are
479 affiliated with or sponsored by a professional sporting association, reserved weddings, reunions,
480 conferences, meetings, concerts, or other special events and does not maintain daily or regular
481 operating hours as a bar or restaurant. The licensee may ~~not~~ sell alcoholic liquors when
482 conducting or hosting non-professional sporting events, when providing prior notice to the
483 commissioner, and further the applicant shall:

484 (1) Have at least 1000 members;

485 (2) Maintain an open air or closed air stadium venue primarily used for sporting events,
486 such as football, baseball, soccer, auto racing, or other professional sports, and also weddings,
487 reunions, conferences, meetings, concerts, or other events where parties ~~must~~ shall reserve the
488 stadium venue in advance of the event;

489 (3) Operate a restaurant and full kitchen with ovens, as determined by the commissioner,
490 on the licensed premises and capable of serving freshly prepared food, or meals to serve its
491 stated members, guests, and patrons who will be attending the event at the private professional
492 sports stadium;

493 (4) Own or lease, control, operate, and use acreage amounting to at least 3 contiguous
494 acres of bounded or fenced real property, as determined by the commissioner, which would be
495 listed on the professional sports stadium's floorplan and could be used for contracted for
496 professional sporting events, group-type weddings, reunions, conferences, meetings, or other
497 events;

498 (5) List the entire property from subdivision (4) of this subsection and all adjoining buildings
499 and structures on the private professional sports stadium's floorplan which would comprise the
500 licensed premises, which would be authorized for the lawful sales, service, and consumption of
501 alcoholic liquors throughout the licensed premises whether these activities were conducted in a
502 building or structure or outdoors while on the private professional sports stadium's licensed
503 premises and as noted on the private professional sports stadium's floorplan;

504 (6) Have an identified person, persons, or entity that has right, title, and ownership interest
505 in the real property buildings and structures located on the proposed licensed premises;

506 (7) Meet and be subject to all other private club requirements; and

507 (8) Use an age verification system approved by the commissioner.

508 ~~(4)~~ "Private farmers market" means an applicant for a private club or licensed private club
509 licensee that operates as an association of bars, restaurants, retailers who sell West Virginia
510 made products among other products, and other stores who open primarily during daytime hours
511 of 6:00 a.m. to 6:00 p.m., but may operate in the day or evenings for special events where the
512 sale of food and alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer may occur
513 for on-premises consumption, such as reserved weddings, reserved dinners, pairing events,
514 tasting events, reunions, conferences, meetings, or other special events and does not maintain
515 daily or regular operating hours as a bar or restaurant, and all business that are members of the
516 association have agreed in writing to be liable and responsible for all sales, service, furnishing,
517 tendering and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft

518 beer occurring on the entire licensed premises of the private farmer's market, including indoor
519 and outdoor bounded areas, and further the applicant shall:

520 (1) Have at least 100 members;

521 (2) Have one or more members operating a private club restaurant and full kitchen with
522 ovens, four-burner ranges, a refrigerator, or freezer (or some combination of the two), and other
523 kitchen utensils and apparatus as determined by the commissioner on the licensed premises and
524 serves freshly prepared food at least 15 hours per week;

525 (3) Have one or more members operating who maintain, at any one time, \$1,000 of fresh
526 food inventory capable of being prepared for events conducted at the private farmers market in
527 the private club restaurant's full kitchen, and in calculating the food inventory the commissioner
528 may not include television dinners, bags of chips or similar products, microwavable meals, frozen
529 meals, prepackaged foods, or canned prepared foods;

530 (4) Have an association that owns or leases, controls, operates, and uses acreage
531 amounting to more than one acre, which is contiguous acreage of bounded or fenced real property
532 which would be listed on the licensee's floorplan and would be used for large contracted for
533 reserved weddings, reserved dinners, pairing events, tasting events, reunions, conferences,
534 meetings, or other special events;

535 (5) Have an association that lists in the application for licensure the entire property and all
536 adjoining buildings and structures on the private farmers market's floorplan which would comprise
537 the licensed premises, which would be authorized for the lawful sales, service, and consumption
538 of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed
539 premises whether these activities were conducted in a building or structure or outdoors while on
540 the private farmers market's licensed premises and as noted on the private farmers market's
541 floorplan;

542 (6) Have an identified person, persons, or entity that has right, title, and ownership or lease
543 interest in the real property buildings and structures located on the proposed licensed premises;

544 (7) Have at least two separate and unrelated vendors applying for the license and
545 certifying that all vendors in the association have agreed to the liability, responsibility associated
546 with a private farmers market license;

547 (8) Only use its employees, independent contractors, or volunteers to purchase, sell,
548 furnish, or serve liquor, wine, nonintoxicating beer, or nonintoxicating craft beer;

549 (9) Provide adequate restroom facilities, whether permanent or portable, to serve the
550 stated members and guests who will be attending the private farmers market;

551 (10) Provide a copy of a written agreement between all the vendors of the association that
552 is executed by all vendors stating that each vendor is jointly and severally liable for any violations
553 of this chapter committed during the event;

554 (11) Provide a security plan indicating all vendor points of service, entrances, and exits in
555 order to verify members, patrons, and guests ages, whether a member, patron, or guest is
556 intoxicated and to provide for the public health and safety of members, patrons, and guests;

557 (12) Use an age verification system approved by the commissioner; and

558 (13) Meet and be subject to all other private club requirements.

559 (†) "Private wedding venue or barn" means an applicant for a private club or licensed
560 private club licensee that is only open for reserved weddings, reunions, conferences, meetings,
561 or other events and does not maintain daily or regular operating hours, and which:

562 (1) Has at least 25 members;

563 (2) Maintains a venue, facility, barn, or pavilion primarily used for weddings, reunions,
564 conferences, meetings, or other events where parties ~~must~~ shall reserve or contract for the venue,
565 facility, barn, or pavilion in advance of the event;

566 (3) Operates a restaurant and full kitchen with ovens, as determined by the commissioner,
567 on the licensed premises and is capable of serving freshly prepared food, or may engage a food
568 caterer to provide adequate freshly prepared food or meals to serve its stated members, guests,
569 and patrons who will be attending the event at the private wedding venue or barn. The applicant

570 or licensee shall provide written documentation including a list of food caterers or written
571 agreements regarding any food catering operations to the commissioner prior to approval of a
572 food catering event;

573 (4) Owns or leases, controls, operates, and uses acreage amounting to at least two
574 contiguous acres of bounded or fenced real property. The applicant or licensee shall verify that,
575 the property is less than two acres and is remotely located, subject to the commissioner's
576 approval. The bounded or fenced real property may be listed on the private wedding venue's
577 floorplan and may be used for large events such as weddings, reunions, conferences, meetings,
578 or other events;

579 (5) Lists the entire property from subdivision (4) of this subsection and all adjoining
580 buildings and structures on the private wedding venue or barn's floorplan that would comprise the
581 licensed premises, which would be authorized for the lawful sales, service, and consumption of
582 alcoholic liquors throughout the licensed premises whether these activities were conducted in a
583 building or structure or outdoors while on the private wedding venue or barn's licensed premises
584 and as noted on the private wedding venue or barn's floorplan;

585 (6) Has an identified person, persons, or entity that has right, title, and ownership interest
586 in the real property buildings and structures located on the proposed licensed premises;

587 (7) Meets and is subject to all other private club requirements; and

588 (8) Uses an age verification system approved by the commissioner.

589 ~~(9)~~ "Private multi-sport complex" means an applicant for a private club or licensed private
590 club licensee that is open for multiple sports events to be played at the complex facilities, reserved
591 weddings, concerts, reunions, conferences, meetings, or other special events, and which:

592 (1) Has at least 100 members;

593 (2) Maintains an open air multi-sport complex primarily for use for sporting events, such
594 as baseball, soccer, basketball, tennis, frisbee, or other sports, but may also conduct weddings,

595 concerts, reunions, conferences, meetings, or other events where parties ~~must~~ shall reserve the
596 parts of the sports complex in advance of the sporting or other event;

597 (3) Operates a restaurant and full kitchen with ovens in the licensee's main facility, as
598 determined by the commissioner, on the licensed premises and capable of serving freshly
599 prepared food, or meals to serve its stated members, guests, and patrons who will be attending
600 the event at the private ~~professional sports stadium~~ multi-sport complex. A licensee may contract
601 with temporary food vendors or food trucks for food sales only, but not on a permanent basis, in
602 areas of the multi-sport complex not readily accessible by the main facility;

603 (4) Maintains, at any one time, \$1,000 of fresh food inventory capable of being prepared
604 in the private multi-sport complex's full kitchen. In calculating the food inventory, the commissioner
605 may not include television dinners, bags of chips, or similar products, microwavable meals, frozen
606 meals, prepackaged foods, or canned prepared foods;

607 (5) Owns or leases, controls, operates, and uses acreage amounting to at least 50
608 contiguous acres of bounded or fenced real property, as determined by the commissioner, which
609 would be listed on the private multi-sport complex's floorplan and could be used for contracted for
610 sporting events, group-type weddings, concerts, reunions, conferences, meetings, or other
611 events;

612 (6) Lists the entire property from subdivision (5) of this subsection and all adjoining
613 buildings and structures on the private multi-sport complex's floorplan which would comprise the
614 licensed premises, which would be authorized for the lawful sales, service, and consumption of
615 alcoholic liquors throughout the licensed premises whether these activities were conducted in a
616 building or structure or outdoors while on the private multi-sport complex's licensed premises and
617 as noted on the private multi-sport complex's floorplan. The licensee may sell alcoholic liquors
618 from a golf cart or food truck owned or leased by the licensee and also operated by the licensee
619 when the golf cart or food truck is located on the private multi-sport complex's licensed premises;

620 (7) Has an identified person, persons, or entity that has right, title, and ownership interest
621 in the real property buildings and structures located on the proposed licensed premises;

622 (8) Meets and is subject to all other private club requirements; and

623 (9) Uses an age verification system approved by the commissioner.

624 The Department of Natural Resources, the authority governing any county or municipal
625 park, or any county commission, municipality, other governmental entity, public corporation, or
626 public authority operating any park or airport may lease, as lessor, a building or portion thereof or
627 other limited premises in any park or airport to any corporation or unincorporated association for
628 the establishment of a private club pursuant to this article.

§60-7-2a. Dual licensing permitted; conditions.

1 (a) Any licensee defined in §60-7-2 of this code is authorized to apply for and hold
2 additional licenses for the purpose of holding events, such as fairs and festivals, and creating
3 tourism opportunities that will show case businesses in this state.

4 (b) A licensee may host an event on the licensee's licensed premises if the licensee is in
5 good standing with the Commissioner and the licensee submits to the Commissioner its floorplan
6 of the licensed venue in which the event would be held to comprise the event's lawful premises,
7 which shall only include spaces in buildings or rooms of the licensed premises where the licensee
8 has control of the space for the set time period where the space safely accounts for the ingress
9 and egress of the stated members and guests who will be attending the event at the licensed
10 premises. The venue's floorplan during the set time period as stated in the contract shall comprise
11 the licensed premises for the event, which is authorized for the lawful sale, service, and
12 consumption of alcoholic liquors, nonintoxicating beer and nonintoxicating craft beer, and wine
13 throughout the licensed premises; *Provided*, That the venue shall: (i) Have facilities to prepare
14 and serve food and alcohol, (ii) have adequate restrooms, and sufficient building facilities for the

15 number of members and guests expected to attend the event, and (iii) otherwise be in compliance
16 with health, fire, safety, and zoning requirements.

17 (c) A licensee defined in §60-7-2 of this code may not be limited or restricted in any way
18 as to the number of events that may be held on the premises so long as the licensee continues
19 to operate its primary business in good standing with the Commissioner.

§60-7-6. Annual license fee; partial fee; and reactivation fee.

1 (a) The annual license fee for a license issued under the provisions of this article to a
2 fraternal or veterans' organization or a nonprofit social club is \$750.

3 (b) The annual license fee for a license issued under the provisions of this article to a
4 private club other than a private club of the type specified in subsection (a) of this section is \$1,000
5 if the private club bar or restaurant has fewer than 1,000 members; \$1,000 for a private club
6 restaurant, private hotel, private resort hotel, or other appropriate licensed entity to be licensed
7 as a private caterer as defined in §60-7-2 of this code; \$1,000 if the private club is licensed as a
8 private food truck; \$100 if the private club is a private bakery; \$1,500 if the private club is a private
9 wedding venue or barn or a private cigar shop; \$2,000 if the private club is a private nine-hole golf
10 course, private farmers market, private college sports stadium, private professional sports
11 stadium, private multi-sport complex, private manufacturer club, or a private tennis club as defined
12 in §60-7-2 of this code; \$2,500 if the private club bar or private club restaurant has 1,000 or more
13 members; \$4,000 if the private club is a private hotel with three or fewer designated areas or a
14 private golf club as defined in §60-7-2 of this code; and further, if the private club is a private resort
15 hotel as defined in §60-7-2 of this code, the private resort hotel may designate areas within the
16 licensed premises for the lawful sale, service, and consumption of alcoholic liquors as provided
17 for by this article. The annual license fee for a private resort hotel with five or fewer designated
18 areas is \$7,500 and the annual license fee for a private resort hotel with at least six, but no more
19 than 10 designated areas is \$12,500. The annual license fee for a private resort hotel with at least

20 11, but no more than 15 designated areas shall be \$17,500. The annual license fee for a private
21 resort hotel with no fewer than 15 nor more than 20 designated areas is \$22,500. A private resort
22 hotel that obtained the license and paid the \$22,500 annual license fee may, upon application to
23 and approval of the commissioner, designate additional areas for a period not to exceed seven
24 days for an additional fee of \$150 per day, per designated area.

25 (c) The fee for any license issued following January 1 of any year that expires on June 30
26 of that year is one half of the annual license fee prescribed by subsections (a) and (b) of this
27 section.

28 (d) A licensee that fails to complete a renewal application and make payment of its annual
29 license fee in renewing its license on or before June 30 of any subsequent year, after initial
30 application, shall be charged an additional \$150 reactivation fee. The fee payment may not be
31 prorated or refunded, and the reactivation fee shall be paid prior to the processing of any renewal
32 application and payment of the applicable full year annual license fee. A licensee who continues
33 to operate upon the expiration of its license is subject to all fines, penalties, and sanctions
34 available in §60-7-13 and §60-7-13a of this code, all as determined by the commissioner.

35 (e) The commissioner shall pay the fees to the State Treasurer and credited to the General
36 Revenue Fund of the state.

37 (f) The Legislature finds that the hospitality industry has been particularly damaged by the
38 COVID-19 pandemic and that some assistance is warranted to promote reopening and continued
39 operation of private clubs and restaurants licensed under this article. Accordingly, the fees set
40 forth in subsections (a) and (b) of this section are temporarily modified as follows;

41 (1) License fees for the license period beginning July 1, 2021, shall be reduced to one-
42 third of the rate set forth in subsections (a) and (b) of this section;

43 (2) License fees for the license period beginning July 1, 2022, shall be reduced to one-
44 third ~~two-thirds~~ of the rate set forth in subsections (a) and (b) of this section; ~~and~~

45 (3) License fees for the license period beginning July 1, 2023, shall be reduced to two-
46 thirds of the rate set forth in subsections (a) and (b) of this section; and,

47 ~~(34)~~ License fees for the license period beginning July 1, 2023~~4~~, and beyond, shall be as
48 set forth in subsections (a) and (b) of this section.

**§60-7-8a. Special license for a private fair and festival; licensee fee and application; license
fee; license subject to provisions of article; exception.**

1 (a) There is hereby created a special license designated Class S2 private fair and festival
2 license for the retail sale of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer for
3 on-premises consumption.

4 (b) To be eligible for the license authorized by subsection (a) of this section, the private
5 fair and festival or other event shall:

6 (1) Be sponsored, endorsed, or approved by the governing body or its designee of the
7 county or municipality in which the private fair and festival or other event is located;

8 (2) Shall make application with the commission at least 15 days pursuant to the private
9 fair, festival, or other event;

10 (3) Pay a nonrefundable nonprorated license fee of ~~\$750~~ \$500; and

11 (4) Be approved by the commissioner to operate the private fair, festival, or other event.

12 (c) A private fair and festival license under this section shall be for a duration of no more
13 than 10 consecutive days ~~and no more than six licenses may be issued to the same person or~~
14 ~~entity in a calendar year.~~

15 (d) Nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or served
16 pursuant to the license created by this section must be purchased from the licensed distributor
17 that services the area in which the private fair and festival is held or from a resident brewer acting
18 in a limited capacity as a distributor, all in accordance with §11-16-1 *et seq.* of this code. Sales of
19 sealed containers of nonintoxicating beer or nonintoxicating craft beer may be sold for off-

20 premises consumption if the nonintoxicating beer and nonintoxicating craft beer are purchased
21 from the licensed distributor that services the area in which the private fair, festival, or other event
22 is being held and such licensed distributor agrees to offer such sales prior to the start of the private
23 fair, festival, or other event.

24 (e) Wine sold, furnished, tendered, or served pursuant to the license created by this
25 section shall be purchased from a licensed distributor, winery, or farm winery in accordance with
26 §60-8-1 *et seq.* of this code. Sales of sealed containers of wine may be sold for off-premises
27 consumption if the wine is purchased from a licensed distributor, winery, or farm winery and the
28 licensed distributor, winery, or farm winery agrees to offer sales prior to the start of the private
29 fair, festival, or other event.

30 (f) Liquor sold, furnished, tendered, or served pursuant to the license created by this
31 section shall be purchased from a licensed retail liquor outlet in the market zone or contiguous
32 market zone where the private fair or festival is occurring, all in accordance with §60-3A-1 *et seq.*
33 of this code. Sales of sealed containers of liquor may be sold for off-premises consumption if the
34 liquor is purchased from the licensed retail liquor outlet in the market zone or contiguous market
35 zone where the private fair, festival, or other event is occurring and the licensed retail liquor outlet
36 agrees to offer such sales prior to the start of the private fair, festival, or other event.

37 (g) A licensee authorized by this section may utilize bona fide employees or volunteers to
38 sell, furnish, tender, or serve the nonintoxicating beer, nonintoxicating craft beer, wine, or liquor.

39 (h) Licensed representatives of a brewer, resident brewer, beer distributor, wine
40 distributor, wine supplier, winery, farm winery, distillery, mini-distillery, and liquor broker
41 representatives may attend a private fair and festival and discuss their respective products but
42 shall not engage in the selling, furnishing, tendering, or serving of any nonintoxicating beer,
43 nonintoxicating craft beer, wine, or liquor.

44 (i) A license issued under this section and the licensee are subject to all other provisions
45 of this article and the rules and orders of the commissioner: *Provided*, That the commissioner may

46 by rule or order allow certain waivers or exceptions with respect to those provisions, rules, or
47 orders as the circumstances of each private fair and festival require, including without limitation,
48 the right to revoke or suspend immediately any license issued under this section prior to any
49 notice or hearing, notwithstanding §60-7-13a of this code: *Provided, however,* That under no
50 circumstances may the provisions of §60-7-12 of this code be waived or an exception granted
51 with respect thereto.

52 (j) During events authorized by this section, licensees may also sell promotional and other
53 items relating to promoting their business and its products.

**§60-7-8f. Private delivery license for a licensed private club restaurant, private
manufacturer club, or a third party; requirements; limitations; third party license
fee; private cocktail delivery permit; and requirements.**

1 (a) A licensed private club restaurant or private manufacturer club licensed to sell liquor
2 for on-premises consumption may apply for a private delivery license permitting the order, sale,
3 and delivery of liquor and a nonalcoholic mixer or beverage in a sealed craft cocktail growler,
4 when separately licensed for craft cocktail growler sales. The order, sale, and delivery of a sealed
5 craft cocktail growler is permitted for off-premises consumption when completed by the licensee
6 to a person purchasing the craft cocktail growler through a telephone, a mobile ordering
7 application, or web-based software program, authorized by the licensee's license. There is no
8 additional fee for a licensed private club restaurant or private manufacturer club to obtain a private
9 delivery license. The order, sale, and delivery process shall meet the requirements of this section.
10 The order, sale, and delivery process is subject to the penalties of this article.

11 (b) A third party, not licensed for liquor sales or distribution, may apply for a private delivery
12 license for the privilege of ordering and delivery of craft cocktail growlers, from a licensee with a
13 craft cocktail growler license. The order and delivery of a sealed craft cocktail growler is permitted
14 by a third party who obtains a license under this section when a private club restaurant or private
15 manufacturer club sells to a person purchasing the sealed craft cocktail growler through telephone

16 orders, a mobile ordering application, or a web-based software program. The private delivery
17 license nonprorated, nonrefundable annual fee is \$200 for each third party entity, with no limit on
18 the number of drivers and vehicles.

19 (c) The private delivery license application shall comply with licensure requirements in this
20 article and shall require any information required by the commissioner; *Provided*, That the license
21 application may not require a third party applicant to furnish information pursuant to §60-7-12 of
22 this code.

23 (d) *Sale Requirements.* —

24 (1) The craft cocktail growler purchase shall accompany the purchase of prepared food or
25 a meal and the completion of the sale may be accomplished by the delivery of the prepared food
26 or a meal, and craft cocktail growler by the licensed private club restaurant, private manufacturer
27 club, or third party private delivery licensee;

28 (2) Any purchasing person shall be 21 years of age or older, shall not be visibly or
29 noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this
30 chapter for the sale of alcoholic liquors and as set forth in §11-16-1 *et seq.* of the code for
31 nonintoxicating beer or nonintoxicating craft beer.

32 (3) "Prepared food or a meal" for this article, means food that has been cooked, grilled,
33 fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other
34 manner freshly made and prepared, and does not include pre-packaged food from the
35 manufacturer.

36 (4) An order, sale, and delivery may consist of multiple sealed craft cocktail growlers for
37 each order of food or meal; *Provided*, That the entire delivery order may not contain any
38 combination of craft cocktail growlers of more than 128 fluid ounces total; and

39 (5) A third party private delivery licensee shall not have a pecuniary interest in a private
40 club restaurant or private manufacturer club licensee, as set forth in this article. A third party
41 private delivery licensee may only charge a convenience fee for the delivery of any alcohol. The

42 third party private delivery licensee may not collect a percentage of the delivery order for the
43 delivery of alcohol, but may continue to collect a percentage of the delivery order directly related
44 to the prepared food or a meal. ~~The convenience fee charged by the third party private delivery~~
45 ~~licensee to the purchasing person shall be no greater than five dollars per delivery order where a~~
46 ~~craft cocktail growler is ordered by the purchasing person. For any third party licensee also~~
47 ~~licensed for wine growler delivery as set forth in §60-8-6c of the code, or nonintoxicating beer or~~
48 ~~nonintoxicating craft beer growler delivery as set forth in §11-16-6d of the code, the total~~
49 ~~convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail~~
50 ~~growler shall not exceed five dollars.~~

51 (e) *Craft Cocktail Growler Delivery Requirements.* —

52 (1) Delivery persons employed for the delivery of a sealed craft cocktail growler shall be
53 21 years of age or older. The licensed private club restaurant, private manufacturer club, or third
54 party private delivery licensee shall file each delivery person's name, driver's license, and vehicle
55 information with the commissioner;

56 (2) The licensed private club restaurant, private manufacturer club, or third party private
57 delivery licensee shall train delivery persons on verifying legal identification and in identifying the
58 signs of intoxication. The licensee shall submit certification of the training to the commissioner;

59 (3) The third party delivery licensee or the private club restaurant or private manufacturing
60 club shall hold a private cocktail delivery permit for each vehicle delivering a craft cocktail growler
61 pursuant to subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic
62 copy of his or her permit as proof of licensure.

63 (4) Prepared food or a meal, and a sealed craft cocktail growler order delivered by a third
64 party private delivery licensee, a private club restaurant, or private manufacturer club may occur
65 in the county or contiguous counties where the licensed private club restaurant or private
66 manufacturer club is located;

67 (5) The licensed private club restaurant, private manufacturer club, or third party private
68 delivery licensee may only deliver prepared food or a meal, and a sealed craft cocktail growler to
69 addresses located in West Virginia. The licensed private club restaurant, private manufacturer
70 club, or third party private delivery licensee shall account for and pay all sales and municipal
71 taxes;

72 (6) The licensed private club restaurant, private manufacturer club, or third party private
73 delivery licensee may not deliver prepared food or a meal, and a sealed craft cocktail growler to
74 any other licensee;

75 (7) Deliveries of prepared food or a meal, and a sealed craft cocktail growler are only for
76 personal use, and not for resale; and

77 (8) The licensed private club restaurant, private manufacturer club, or third party private
78 delivery licensee shall not deliver and leave the prepared food or a meal, and a sealed craft
79 cocktail growler at any address without verifying a person's age and identification as required by
80 this section.

81 (f) *Telephone, mobile ordering application, or web-based software requirements.* —

82 (1) The delivery person may only permit the person who placed the order through a
83 telephone order, a mobile ordering application, or web-based software to accept the prepared
84 food or meal and a craft cocktail growler delivery, subject to age verification upon delivery with
85 the delivery person's visual review and age verification ~~and, as an application, a stored scanned~~
86 ~~image of the purchasing person's legal identification;~~

87 (2) Any mobile ordering application or web-based software used ~~shall create a stored~~
88 ~~record and image of the purchasing person's legal identification and details of the sale, accessible~~
89 ~~by the delivery driver for verification, and shall include the delivery driver's name and vehicle~~
90 ~~information and delivery shall be subject to legal identification verification;~~

91 (3) Any telephone ordering system shall maintain a log or record of the purchasing
92 person's ~~legal~~ identification and details of the sale, accessible by the delivery driver for

93 verification, ~~and~~ shall include the delivery driver's name and vehicle information, and delivery shall
94 be subject to legal identification verification;

95 (4) All records are subject to inspection by the commissioner. The licensed private club
96 restaurant, private manufacturer club, or third party private delivery licensee shall retain records
97 for three years, and may not unreasonably withhold the records from the commissioner's
98 inspection; and

99 (5) The third party private delivery licensee or the private club restaurant or private
100 manufacturing club shall hold a valid private cocktail delivery permit under subsection (g) of this
101 section for each vehicle used for delivery: *Provided*, That a delivery driver may retain an electronic
102 copy of his or her permit as proof of licensure.

103 (g) *Private Cocktail Delivery Permit.* —

104 (1) The licensed private club restaurant, private manufacturer club, or third party private
105 delivery licensee shall obtain and maintain a retail transportation permit for the delivery of
106 prepared food and a sealed craft cocktail growler, subject to the requirements of this article.

107 (2) A third party private delivery licensee, a private club restaurant, or private manufacturer
108 club licensee shall provide vehicle and driver information, requested by the commissioner. Upon
109 any change in vehicles or drivers, the licensee shall update the driver and vehicle information with
110 the commissioner within 10 days of the change.

111 (3) In conjunction with §60-6-12 of this code, a private cocktail delivery permit shall meet
112 the requirements of a transportation permit authorizing the permit holder to transport liquor subject
113 to the requirements of this chapter.

114 (h) *Enforcement.* —

115 (1) The third party private delivery licensee, the private club restaurant, or the private
116 manufacturers club licensed by this section are responsible for any violations committed by their
117 employees or independent contractors under this article, and more than one violation may be
118 issued for a single violation involving multiple licensees, employees, or independent contractors.

119 (2) Any license or permit granted by this section is subject to the penalties of probation,
120 monetary fines, suspension, and revocation, as set forth in this article, for violations committed
121 by the licensee, its employees, or independent contractors.

122 (3) It is a violation for any licensee, its employees, or independent contractors to break
123 the seal of a craft cocktail growler. The licensees in violation are subject to the maximum penalties
124 available in this article.

125 (4) For purposes of criminal enforcement of the provisions of this article, persons ordering,
126 purchasing, and accepting delivery of orders are considered to be purchasers.

§60-7-17. Repealer.

1 [Repealed.]

ARTICLE 8. SALE OF WINES.

**§60-8-6c. Winery and Farm Winery license to sell wine growlers and provide
complimentary samples prior to purchasing a wine growler.**

1 (a) *Legislative findings.* — The Legislature hereby finds that it is in the public interest to
2 regulate, control, and support the brewing, manufacturing, distribution, sale, consumption,
3 transportation, and storage of wine and its industry in this state to protect the public health,
4 welfare, and safety of the citizens of this state, and promote hospitality and tourism. Therefore,
5 this section authorizes a licensed winery or farm winery with its principal place of business and
6 manufacture located in this state to have certain abilities to promote the sale of wine manufactured
7 in this state for the benefit of the citizens of this state, the state’s growing wine industry, and the
8 state’s hospitality and tourism industry, all of which are vital components for the state’s economy.

9 (b) *Sales of wine.* — A licensed winery or farm winery with its principal place of business
10 and manufacture located in the State of West Virginia may, when licensed under this section,
11 offer only wine manufactured by the licensed winery or farm winery for retail sale to customers
12 from the winery or farm winery’s licensed premises for consumption off of the licensed premises
13 only in the form of original container sealed wine kegs, wine bottles, or wine cans, or also a sealed

14 wine growler for personal consumption, and not for resale. A licensed winery or farm winery may
15 not sell, give, or furnish wine for consumption on the premises of the principal place of business
16 and manufacture located in the State of West Virginia, except for the limited purpose of
17 complimentary samples as permitted in subsection (c) of this section or unless separately licensed
18 as a private wine restaurant or a private manufacturer club.

19 (c) *Complimentary samples.* — A licensed winery or farm winery with its principal place of
20 business and manufacture located in the State of West Virginia may offer complimentary samples
21 of wine as set forth in §60-4-3b of this code.

22 (d) *Retail sales.* — Every licensed winery or farm winery under this section shall comply
23 with all the provisions of this article as applicable to wine retailers when conducting wine growler
24 sales and is subject to all applicable requirements and penalties in this article.

25 (e) *Payment of taxes and fees.* — A winery or farm winery licensed under this section shall
26 pay all taxes and fees required of licensed wine retailers, in addition to any other taxes and fees
27 required, and shall meet applicable licensing provisions as required by this chapter and by rule of
28 the commissioner.

29 (f) *Advertising.* — A winery or farm winery under this section may advertise a particular
30 brand or brands of wine produced by the licensed winery or farm winery and the price of the wine
31 subject to state and federal requirements or restrictions. The advertisement may not encourage
32 intemperance or target minors.

33 (g) *Wine Growler defined.* — For purposes of this section and section §60-8-6d of the code,
34 “wine growler” means a container or jug that is made of glass, ceramic, metal, or other material
35 approved by the commissioner, that may be no larger than 128 fluid ounces in size and is capable
36 of being securely sealed. The growler may be used by an authorized licensee for purposes of off-
37 premises sales only of wine for personal consumption, and not for resale. The wine served and
38 sold in a sealed wine growler may include ice or water mixed with the wine to create a frozen
39 alcoholic beverage. Any frozen alcoholic beverage machine used for filling wine growlers shall be

40 sanitized daily and shall be under control and served by the licensee from the secure area.

41 Notwithstanding any other provision of this code to the contrary, a securely sealed wine growler
42 is not an open container under state and local law. A wine growler with a broken seal is an open
43 container under state and local law unless it is located in an area of the motor vehicle physically
44 separated from the passenger compartment. For purpose of this article, a secure seal means
45 using a tamper evident seal, such as: (1) A plastic heat shrink wrap band, strip, or sleeve
46 extending around the cap or lid of wine growler to form a seal that ~~must~~ shall be broken when the
47 container is opened; or (2) A screw top cap or lid that breaks apart when the wine growler is
48 opened.

49 (h) *Wine Growler requirements.* — A winery or farm winery licensed under this section
50 shall prevent patrons from accessing the secure area where the winery or farm winery fills a wine
51 growler and prevent patrons from filling a wine growler. A licensed winery or farm winery under
52 this section shall sanitize, fill, securely seal, and label any wine growler prior to its sale. A licensed
53 winery or farm winery under this section may refill a wine growler subject to the requirements of
54 this section. A winery or farm winery shall visually inspect any wine growler before filling or refilling
55 it. A winery or farm winery may not fill or refill any wine growler that appears to be cracked, broken,
56 unsafe, or otherwise unfit to serve as a sealed beverage container.

57 (i) *Wine Growler labeling.* — A winery or farm winery licensed under this section selling
58 wine growlers shall affix a conspicuous label on all sold and securely sealed wine growlers listing
59 the name of the licensee selling the wine growler, the brand of the wine in the wine growler, the
60 alcohol content by volume of the wine in the wine growler, and the date the wine growler was
61 filled or refilled. All labeling on the wine growler shall be consistent with all federal labeling and
62 warning requirements.

63 (j) *Wine Growler sanitation.* — A licensed winery or farm winery authorized under this
64 section shall clean and sanitize all wine growlers it fills or refills in accordance with all state and
65 county health requirements prior to its filling and sealing. In addition, the licensed winery or farm

66 winery shall sanitize, in accordance with all state and county health requirements, all taps, tap
67 lines, pipelines, barrel tubes, and any other related equipment used to fill or refill growlers. Failure
68 to comply with this subsection may result in penalties under this article.

69 (k) *Fee.* — There is no additional fee for a licensed winery or farm winery authorized under
70 this section to sell wine growlers, but the licensee shall meet all other requirements of this section.

71 (l) *Limitations on licensees.* — To be authorized under this section, a licensed winery or
72 farm winery may not produce more than 10,000 gallons of wine per calendar year at the winery
73 or farm winery’s principal place of business and manufacture located in the State of West Virginia.
74 A licensed winery or farm winery authorized under this section is subject to the applicable
75 penalties under this article for violations of this section.

76 (m) *Rules.* — The commissioner, in consultation with the Bureau for Public Health, may
77 propose legislative rules concerning sanitation for legislative approval, pursuant to §29A-3-1 *et*
78 *seq.* of this code, to implement this section.

**§60-8-6e. Private wine delivery license for a licensed Class A wine licensee or a third party;
requirements; limitations; third party license fee; private retail transportation
permit; and requirements.**

1 (a) A Class A wine licensee who is licensed to sell wine for on-premises consumption may
2 apply for a private wine delivery license permitting the order, sale, and delivery of wine in the
3 original container of sealed bottles or cans, or sealed wine growlers, when separately licensed for
4 wine growler sales. The order, sale, and delivery of wine in the original container of sealed bottles
5 or cans, or sealed wine growlers is permitted for off-premises consumption when completed by
6 the licensee or the licensee’s employees to a person purchasing the wine through a telephone,
7 mobile ordering application, or web-based software program, authorized by the licensee’s license.
8 There is no additional fee for a Class A wine licensee to obtain a private wine delivery license.
9 The order, sale, and delivery process must meet the requirements of this section. The order, sale,
10 and delivery process is subject to the penalties of this article.

11 (b) A third party, not licensed for wine sales or distribution, may apply for a private wine
12 delivery license for the privilege of ordering and delivery of wine in the original container of sealed
13 bottles, or cans, or sealed wine growlers, from a licensee with a wine growler license. The order
14 and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is
15 permitted by a third party licensee when sold by a Class A wine licensee to a person purchasing
16 the wine through telephone orders, mobile ordering application, or web-based software program
17 for off-premises consumption. The private wine delivery license non-prorated, nonrefundable
18 annual fee is \$200 per third party entity, with no limit on the number of drivers and vehicles.

19 (c) The private wine delivery license application shall comply with licensure requirements
20 in this article and shall contain any information required by the commissioner.

21 (d) *Sale Requirements.* —

22 (1) The wine purchase shall accompany the purchase of prepared food or a meal and the
23 completion of the sale may be accomplished by the delivery of prepared food or a meal, and
24 sealed wine by the licensee or third-party licensee.

25 (2) Any purchasing person shall be 21 years of age or older, shall not be visibly or
26 noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this
27 article for the sale of wine.

28 (3) "Prepared food or a meal" for this article, means food that has been cooked, grilled,
29 fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other
30 manner freshly made and prepared, and does not include pre-packaged food from the
31 manufacturer.

32 (4) An order, sale, and delivery may consist of no more than 384 fluid ounces of wine per
33 delivery order; and

34 (5) A third-party private wine delivery licensee may not have a pecuniary interest in a Class
35 A wine licensee, as set forth in this article. A third-party private wine delivery licensee may only
36 charge a convenience fee for the delivery of wine as provided in this section. The third-party

37 private wine delivery licensee may not collect a percentage of the delivery order for the delivery
38 of alcohol but may collect a percentage of the delivery order directly related to prepared food or
39 a meal. ~~The convenience fee charged by the third party private wine delivery licensee to the~~
40 ~~purchasing person may be no greater than five dollars per delivery order where wine is ordered~~
41 ~~by the purchasing person. For any third party private wine delivery licensee also licensed for~~
42 ~~nonintoxicating beer or nonintoxicating craft beer growler delivery as set forth in §11-16-6d of the~~
43 ~~code or craft cocktail growler delivery as set forth in §60-7-8f of the code, the total convenience~~
44 ~~fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler~~
45 ~~shall not exceed five dollars.~~

46 (e) *Private Wine Delivery Requirements.* —

47 (1) Delivery persons employed for the delivery of sealed wine shall be 21 years of age or
48 older. The third-party private wine delivery licensee or a Class A wine licensee shall file each
49 delivery person's name, driver's license, and vehicle information with the commissioner;

50 (2) The third-party private wine delivery licensee or the Class A wine licensee shall train
51 delivery persons on verifying legal identification and in identifying the signs of intoxication. The
52 third-party private wine delivery licensee shall submit certification of the training to the
53 commissioner;

54 (3) The third party private wine delivery licensee or Class A wine licensee shall hold a
55 retail transportation permit for each vehicle delivering sealed wine per subsection (g) of this
56 section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof
57 of licensure;

58 (4) Delivery of food or a meal, and sealed wine orders by a third-party private wine delivery
59 licensee or Class A wine licensee may occur in the county or contiguous counties where the wine
60 licensee is located;

61 (5) The third-party private wine delivery licensee or Class A wine licensee may only deliver
62 prepared food or a meal and sealed wine to addresses located in West Virginia. The third-party

63 private wine delivery licensee or Class A wine licensee shall account for and pay all sales and
64 municipal taxes;

65 (6) The third-party private wine delivery licensee or Class A wine licensee may not deliver
66 prepared food or a meal, and sealed wine to any other wine licensees;

67 (7) Deliveries of food or a meal, and sealed wine are only for personal use, and not for
68 resale; and

69 (8) The third-party private wine delivery licensee or Class A wine licensee shall not deliver
70 and leave deliveries of prepared food or a meal, and sealed wine any address without verifying a
71 person's age and identification as required by this section.

72 (f) *Telephone, mobile ordering application, or web-based software requirements.* —

73 (1) The delivery person shall only permit the person who placed the order through a
74 telephone order, a mobile ordering application, or web-based software to accept the prepared
75 food or meal, and wine delivery which is subject to age verification upon delivery with the delivery
76 person's visual review and verification ~~and, as applicable, a stored scanned image of the~~
77 ~~purchasing person's legal identification;~~

78 (2) Any mobile ordering application or web-based software used ~~shall create a stored~~
79 ~~record and image of the purchasing person's legal identification and details of the sale, accessible~~
80 ~~by the delivery driver for verification, and shall include the delivery driver's name and vehicle~~
81 ~~information~~ and delivery shall be subject to legal identification verification;

82 (3) Any telephone ordering system shall maintain a log or record of the purchasing
83 person's ~~legal~~ identification and details of the sale, accessible by the delivery driver for
84 verification, ~~and shall include the delivery driver's name and vehicle information,~~ and delivery shall
85 be subject to legal identification verification;

86 (4) All records are subject to inspection by the commissioner, and the third-party private
87 wine delivery licensee and Class A wine licensee shall retain the records for inspection for three

88 years. The third-party private wine delivery licensee or Class A wine licensee may not
89 unreasonably withhold the records from the commissioner's inspection; and

90 (5) Each vehicle delivering wine shall be issued a private wine retail transportation permit
91 per subsection (g) of this section.

92 (g) *Private Wine Retail Transportation Permit.* —

93 (1) A Class A wine licensee or a third-party private wine delivery licensee shall obtain and
94 maintain a retail transportation permit for the delivery of prepared food and sealed wine.

95 (2) A Class A wine licensee or a third-party private wine delivery licensee shall provide
96 vehicle and driver information, requested by the commissioner. Upon any change in vehicles or
97 drivers, the licensee shall update the driver and vehicle information with the commissioner within
98 10 days of the change.

99 (3) In conjunction with §60-6-12 of this code, a private wine retail transportation permit
100 shall meet the requirements of a transportation permit authorizing the permit holder to transport
101 wine subject to the requirements of this chapter.

102 (h) *Enforcement.* —

103 (1) The licensee or the third-party private wine delivery licensee are responsible for any
104 violations committed by their employees or independent contractors under this article, and more
105 than one violation may be issued for a single violation involving multiple licensees, employees, or
106 independent contractors.

107 (2) Any license or permit granted by this section is subject to the penalties of probation,
108 monetary fines, suspension, and revocation, as set forth in this article, for violations committed
109 by the licensee, its employees, or independent contractors.

110 (3) It is a violation for any licensee, its employees, or independent contractors to break
111 the seal of a wine bottle, wine can, or wine growler. A person who violates the provisions of this
112 subdivision is subject to the maximum penalties available in this article.

113 (4) For purposes of criminal enforcement of the provisions of this article, persons ordering,
114 purchasing, and accepting delivery of orders are considered to be purchasers.

**§60-8-6f. Private wine delivery license for a licensed Class B wine licensee or a third party;
requirements; limitations; third party license fee; private retail transportation
permit; and requirements.**

1 (a) A Class B wine licensee who is licensed to sell wine for on-premises consumption may
2 apply for a private wine delivery license permitting the order, sale, and delivery of wine in the
3 original container of sealed bottles or cans, or sealed wine growlers, when separately licensed for
4 wine growler sales. The order, sale, and delivery of wine in the original container of sealed bottles,
5 cans, or sealed wine growlers is permitted for off-premises consumption when completed by the
6 licensee or the licensee's employees to a person purchasing the wine through a telephone order,
7 a mobile ordering application, or web-based software program, as authorized by the licensee's
8 license. There is no additional fee for a Class B wine licensee to obtain a private wine delivery
9 license. The order, sale, and delivery process shall meet the requirements of this section, and
10 subject to the penalties of this article.

11 (b) A third party, not licensed for wine sales or distribution, may apply for a private wine
12 delivery license for the privilege of the ordering and delivery of wine in the original container of
13 sealed bottles, or cans, or sealed wine growlers, from a licensee with a wine growler license. The
14 order and delivery of wine in the original container of sealed bottles or cans, or sealed wine
15 growlers is permitted for off-premises consumption by a third party licensee when sold by a Class
16 B wine licensee to a person purchasing the wine through telephone orders, mobile ordering
17 application, or web-based software program. The private wine delivery license non-prorated,
18 nonrefundable annual fee is \$200 per third party entity, with no limit on the number of drivers and
19 vehicles.

20 (c) The private wine delivery license application shall comply with licensure requirements
21 in this article and shall contain any information required by the commissioner.

22 (d) *Sale Requirements.* —

23 (1) The wine purchase may accompany the purchase of food and the completion of the
24 sale may be accomplished by the delivery of food and sealed wine by the licensee or third-party
25 private wine delivery licensee.

26 (2) Any purchasing person must be 21 years of age or older, shall not be visibly or
27 noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this
28 article for the sale of wine.

29 (3) Food, for purposes of this section, means food that has been cooked, microwaved, or
30 that is pre-packaged food from the manufacturer;

31 (4) An order, sale, or delivery consisting of food and any combination of sealed wine
32 bottles, cans, or growlers shall not be in excess of 384 fluid ounces of wine; and

33 (5) A third-party private wine delivery licensee shall not have a pecuniary interest in a
34 Class B wine licensee, as set forth in this article. A third-party private wine delivery licensee may
35 only charge a convenience fee for the delivery of wine. The third-party private wine delivery
36 licensee may not collect a percentage of the delivery order for the delivery of alcohol but may
37 collect a percentage of the delivery order directly related to food only. ~~The convenience fee~~
38 ~~charged by the third party private wine delivery licensee to the purchasing person shall be no~~
39 ~~greater than five dollars per delivery order where wine is ordered by the purchasing person. For~~
40 ~~any third party licensee also licensed for nonintoxicating beer or nonintoxicating craft beer~~
41 ~~delivery as set forth in §11-16-6f of the code, the total convenience fee of any order, sale, and~~
42 ~~delivery shall not exceed five dollars.~~

43 (e) *Private Wine Delivery Requirements.* —

44 (1) Delivery persons employed for the delivery of sealed wine shall be 21 years of age or
45 older. The third-party private wine delivery licensee or a Class B wine licensee shall file each
46 delivery person's name, driver's license, and vehicle information with the commissioner;

47 (2) The third-party private wine delivery licensee or Class B wine licensee shall train
48 delivery persons on verifying legal identification and in identifying the signs of intoxication and
49 certification. The third-party private wine delivery licensee or Class B wine licensee shall submit
50 certification of the training to the commissioner;

51 (3) The third party delivery licensee or Class B wine licensee must hold a retail
52 transportation permit for each vehicle delivering sealed wine as required by subsection (g) of this
53 section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof
54 of licensure;

55 (4) The third-party private wine delivery licensee or Class B wine licensee may only deliver
56 food and sealed wine orders by a third-party private wine delivery licensee or Class B wine
57 licensee in the county where the wine licensee is located;

58 (5) The third-party private wine delivery licensee or Class B wine licensee may only deliver
59 food and sealed wine to addresses located in West Virginia with all sales and municipal taxes
60 accounted for and paid;

61 (6) A third-party private wine delivery licensee or Class B wine licensee may not deliver
62 food and sealed wine to any other wine licensees;

63 (7) Deliveries of food and sealed wine are only for personal use, and not for resale; and

64 (8) A third-party private wine delivery licensee or Class B wine licensee shall not deliver
65 and leave food and sealed wine at any address without verifying a person's age and identification
66 as required by this section.

67 (f) *Telephone, mobile ordering application, or web-based software requirements.* —

68 (1) The delivery person shall only permit the person who placed the order through a
69 telephone, a mobile ordering application, or web-based software to accept the food and wine
70 delivery which is subject to age verification upon delivery with the delivery person's visual review
71 and verification ~~and, as applicable, a stored scanned image of the purchasing person's legal~~
72 ~~identification;~~

73 (2) Any mobile ordering application or web-based software used shall ~~create a stored~~
74 ~~record and image of the purchasing person's legal identification and details of the sale, accessible~~
75 ~~by the delivery driver for verification, and shall~~ include the delivery driver's name and vehicle
76 information and delivery shall be subject to legal identification verification;

77 (3) Any telephone ordering system shall maintain a log or record of the purchasing
78 person's ~~legal~~ identification and details of the sale, accessible by the delivery driver for
79 verification, ~~and~~ must include the delivery driver's name and vehicle information, and delivery
80 shall be subject to legal identification verification;

81 (4) All records are subject to inspection by the commissioner. The third-party private wine
82 delivery licensee or Class B wine licensee shall retain the records for inspection for three years.
83 The third-party private wine delivery licensee or Class B wine licensee may not unreasonably
84 withhold the records from the commissioner's inspection; and

85 (5) Each vehicle delivering wine shall be issued a private wine retail transportation permit
86 under subsection (g) of this section.

87 (g) *Private Wine Retail Transportation Permit.* —

88 (1) A Class B wine licensee or third party private wine delivery licensee shall obtain and
89 maintain a retail transportation permit for the delivery of food and wine.

90 (2) A Class B wine licensee or third party private wine delivery licensee shall provide
91 vehicle and driver information requested by the commissioner. Upon any change in vehicles or
92 drivers, the licensee shall update the driver and vehicle information with the commissioner within
93 10 days of the change.

94 (3) In conjunction with §60-6-12 of this code, a private wine retail transportation permit
95 shall meet the requirements of a transportation permit authorizing the permit holder to transport
96 wine subject to the requirements of this chapter.

97 (h) *Enforcement.* —

98 (1) The licensee or third-party private wine delivery licensee are each responsible for any
99 violations committed by their employees or agents under this article, and more than one violation
100 may be issued for a single violation involving multiple licensees, employees, or independent
101 contractors.

102 (2) Any license or permit granted by this section is subject to the penalties of probation,
103 monetary fines, suspension, and revocation, as set forth in this article, for violations committed
104 by the licensee, its employees, or independent contractors.

105 (3) It is a violation for any licensee, its employees, or independent contractors to break
106 the seal of a wine bottle, wine can, or wine growler. A person who violates the provisions of this
107 subdivision is subject to the maximum penalties available in this article.

108 (4) For purposes of criminal enforcement of the provisions of this article, persons ordering,
109 purchasing, and accepting delivery of orders are considered to be purchasers.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

§61-8-27. Unlawful admission of children to dance house, etc.; penalty.

1 Any proprietor or any person in charge of a dance house, concert saloon, theater,
2 museum, or similar place of amusement, or other place, where wines or spirituous or malt liquors
3 are sold or given away, or any place of entertainment injurious to health or morals who admits or
4 permits to remain therein any minor under the age of 18 years, unless accompanied by his or her
5 parent or guardian, is guilty of a misdemeanor and, on conviction thereof, shall be punished by a
6 fine not exceeding \$200: *Provided*, That there is exemption from this prohibition for: (a) A private
7 caterer, private club restaurant, private manufacturer club, private fair and festival, private resort
8 hotel, private hotel, private golf club, private nine-hole golf course, private tennis club, private
9 wedding venue or barn, private outdoor dining and private outdoor street dining, private multi-
10 vendor fair and festival license, private farmers market, private professional sports stadium, and

11 a private multi-sports complex licensed pursuant to §60-7-1 *et seq.* of this code and in compliance
12 with §60-7-2(f)(~~44~~5), §60-7-2(g)(5), §60-7-2(h)(49), ~~§60-7-2(i)(8)~~, ~~§60-7-2(j)(7)~~, §60-7-2(k)(~~84~~),
13 §60-7-2(l)(8), §60-7-2(m)(7), §60-7-2(n)(~~78~~), §60-7-2(o)(8), §60-7-2(p)(~~87~~), §60-7-2(q)(~~428~~), §60-
14 7-2(r)(8), §60-7-2(s)(~~97~~), §60-7-2(t)(8), §60-7-2(u)(12), §60-7-12(v)(8), §60-7-2(w)(9), §60-7-
15 8c(b)(14), §60-7-8d, and §60-8-32a, of this code; or (b) a private club with more than 1,000
16 members that is in good standing with the Alcohol Beverage Control Commissioner, that has been
17 approved by the Alcohol Beverage Control Commissioner; and which has designated certain
18 seating areas on its licensed premises as nonalcoholic liquor and nonintoxicating beer areas, as
19 noted in the licensee's floorplan, by using a mandatory carding or identification program by which
20 all members or guests being served or sold alcoholic liquors, nonintoxicating beer, or
21 nonintoxicating craft beer are asked and required to provide their proper identification to verify
22 their identity and further that they are of legal drinking age, 21 years of age or older, prior to each
23 sale or service of alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer.

NOTE: The purpose of this bill is to remove the 300 foot requirement; clarify that wine and liquor are not required to be bagged when sold; revise the blood alcohol chart posted by on-premises and off-premises licensees; create a private bakery license, private cigar shop license, private college sports stadium license, and a private food truck license; permit private hotels and private resort hotels or other licensed entities to apply for a private caterer license; authorize private hotels and private resort hotels to have mini-bars for in-room alcohol sales to adults; authorize frozen wine slushies in wine growlers to be sold by certain licensees; and create certain exceptions to the unlawful admission to dance halls when a private club uses an age verification system.

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