

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 659

BY SENATORS TRUMP, CAPUTO, AND MARONEY

[Introduced February 16, 2022; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §11-16-8 of the Code of West Virginia, 1931, as amended; to amend
2 said code by adding thereto a new section, designated §60-1-3a; to amend and reenact
3 §60-6-24 of said code; to amend and reenact §60-7-2, and §60-7-6 of said code; to amend
4 and reenact §60-8-6c of said code; and to amend and reenact §61-8-27 of said code, all
5 relating to nonintoxicating beer, wine and liquor licenses and requirements; providing for
6 removal of the 300 foot requirement; clarifying that licensees are not required to place
7 alcoholic liquors in a bag after purchase; revising the blood alcohol chart; creating a
8 license for a private bakery to produce confections with alcohol added and setting a
9 license fee; creating a license for a private cigar shop to, where legally permissible, permit
10 the sale of alcohol, food, and cigars for on-premises consumption, and setting a license
11 fee; creating a license for a private college sports stadium for alcohol sales in certain areas
12 of Division I, II, or III sports stadiums, and setting a license fee; creating a license for a
13 private food truck to conduct food and alcohol sales at various locations when permitted
14 by a municipality, and setting a license fee; permitting private hotels and private resort
15 hotels to apply for a private caterer license; authorizing private hotels and private resorts
16 hotels to utilize in-room mini-bars for limited alcohol sales to adults 21 year of age and
17 over; authorizing wine growler sales where wine may be mixed with ice and water to
18 produce a frozen alcoholic beverage for sale in sealed wine growlers, and additional
19 requirements; and providing additional exceptions to the criminal penalty for the unlawful
20 admission of children to a dance hall for certain private clubs with an age verification
21 system.

Be it enacted by the Legislature of West Virginia:

CHAPTER 11. TAXATION.

ARTICLE 16. NONINTOXICATING BEER.

§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 a proposed business in~~
51 ~~a place or building within 300 feet of a school does not apply to a college or university that has~~
52 ~~notified the commissioner, in writing, that it has no objection to the location of a proposed business~~

53 ~~in a place or building within 300 feet of the college or university~~

54 (6) That the applicant is not incarcerated and has not during the five years preceding the
55 date of said application been convicted of a felony;

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

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

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

68 (c) The provisions and requirements of subsection (a) of this section are mandatory
69 prerequisites for the issuance and, if any applicant fails to qualify, the license shall be refused. In
70 addition to the information furnished in any application, the commissioner may make such
71 additional and independent investigation of each applicant, manager, and of the place to be
72 occupied as necessary or advisable and, for this reason, all applications, with license fee and
73 bond, ~~must~~ shall be submitted with all true and correct information. For the purpose of conducting
74 ~~such~~ the independent investigation, the commissioner may withhold the granting or refusal to
75 grant the license for a 30-day period or until the applicant has completed the conditions set forth
76 in this section. If it appears that the applicant and manager meet the requirements in the code
77 and the rules, including, but not limited to, being a suitable person of good reputation and morals;
78 having made no false statements or material misrepresentations; involving no hidden ownership;

79 and having no persons with an undisclosed pecuniary interest contained in the application; and if
 80 there are no other omissions or failures by the applicant to complete the application, as
 81 determined by the commissioner, the commissioner shall issue a license authorizing the applicant
 82 to sell nonintoxicating beer or nonintoxicating craft beer.

83 (d) The commissioner may refuse a license to any applicant under the provisions of this
 84 article if the commissioner is of the opinion:

85 (1) That the applicant or manager is not a suitable person to be licensed;

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

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

94 (4) That the license should not be issued for reason of conduct declared to be unlawful by
 95 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 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. This applicant or licensee may not sell liquor, wine, or
47 nonintoxicating beer or nonintoxicating craft beer for on or off premises consumption. This
48 applicant or licensee may sell the baked goods with alcohol added for on and off premises
49 consumption. Further, the applicant or licensee shall meet the criteria set forth in this subsection
50 which:

51 (1) Has at least 50 members;

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

57 consumption available to be served during all hours of operation on the licensed premises;

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

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

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

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

75 (1) Has at least 50 members;

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

82 (3) Maintains, at any one time, \$500 of food inventory capable of being prepared in the

83 private club bar's kitchen or has on hand at least \$150 in food provided by a private caterer. In
84 calculating the food inventory, the commissioner shall include television dinners, bags of chips or
85 similar products, microwavable food or meals, frozen meals, prepackaged foods, or canned
86 prepared foods;

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

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

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

100 (1) Have at least 10 members and guests attending the catering event;

101 (2) Have obtained an open container waiver or have otherwise been approved by a
102 municipality or county in which the event is being held;

103 (3) Operate a private club restaurant on a daily operating basis;

104 (4) Only use its employees, independent contractors, or volunteers to sell and serve
105 alcoholic liquors who have received certified training in verifying the legal identification, the age
106 of a purchasing person, and the signs of visible, noticeable, and physical intoxication;

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

108 (A) The name and business address of the unlicensed private venue where the private

109 caterer is to provide food and alcohol for a catering event;

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

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

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

125 (6) Not hold more than 15 private catering events per calendar year. Upon reaching the
126 16th event, the unlicensed venue shall obtain its own private club license;

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

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

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

132 ~~(g)~~ "Private club bar" means an applicant for a private club or licensed private club licensee
133 that has a primary function for the use of the licensed premises as a bar for the sale and
134 consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer when

135 licensed for ~~such~~ those sales, while providing a limited food menu for members and guests, and
136 meeting the criteria set forth in this subsection which:

137 (1) Has at least 100 members;

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

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

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

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

153 "Private food truck" means an applicant for a private club, licensed private club licensee,
154 or licensed private manufacturer's club licensee that has a primary function of operating a food
155 preparation business using an industrial truck, van, or trailer to prepare food and meals while
156 utilizing a propane or electric generator powered kitchen, for sale at various locations within the
157 state. The private food truck applicant shall obtain county or municipal approval to operate for
158 food and liquor, wine, and nonintoxicating beer or nonintoxicating craft beer sales and service,
159 while providing a food menu for members and guests. The private food truck applicant shall meet
160 the criteria set forth in this subsection which:

161 (1) Has at least 10 members;

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

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

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

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

179 (6) Requires all nonintoxicating beer and nonintoxicating craft beer sold, furnished,
180 tendered, or served pursuant to the license created by this section to be purchased from the
181 licensed distributor where the private food truck has its home location or from a resident brewer
182 acting in a limited capacity as a distributor, all in accordance with §11-16-1 et seq. of this code.

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

186 (8) Requires liquor sold, furnished, tendered, or served pursuant to the license created by
187 this section shall be purchased from a licensed retail liquor outlet in the market zone or contiguous
188 market zone where the private food truck has its main business location, all in accordance with
189 §60-3A-1 et seq. of this code.

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

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

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

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

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

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

205 ~~(h)~~ "Private club restaurant" means an applicant for a private club or licensed private club
206 licensee that has a primary function of using the licensed premises as a restaurant for serving
207 freshly prepared meals and dining in the restaurant area. The private club restaurant may have a
208 bar area separate from or commingled with the restaurant, seating requirements for members
209 and guests ~~must~~ shall be met by the restaurant area. The applicant for a private club restaurant
210 license shall meet the criteria set forth in this subsection which:

211 (1) Has at least 100 members;

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

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

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

227 (5) May uncork and serve members and guests up to two bottles of wine that a member
228 purchased from a wine retailer, wine specialty shop, an applicable winery or farm winery when
229 licensed for retail sales, or a licensed wine direct shipper when the purchase is for personal use
230 and, not for resale. The licensee may charge a corkage fee of up to \$10 dollars per bottle. In no
231 event may a member or a group of members and guests exceed two sealed bottles or containers
232 of wine to carry onto the licensed premises for uncorking and serving by the private club restaurant
233 and for personal consumption by the member and guests. A member or guest may cork and
234 reseal any unconsumed wine bottles as provided in §60-8-3(j) of this code and the legislative
235 rules, for carrying unconsumed wine off the licensed premises;

236 (6) ~~Must~~ Shall have at least two restrooms for members and their guests: *Provided*, That
237 this requirement may be waived by the local health department upon supplying a written waiver

238 of the requirement to the commissioner: *Provided, however,* That the requirement may also be
239 waived for a historic building by written waiver supplied to commissioner of the requirement from
240 the historic association or district with jurisdiction over a historic building: *Provided, further* That
241 in no event shall may a private club restaurant have less than one restroom; and

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

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

249 (1) Has at least 100 members;

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

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

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

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

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

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

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

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

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

279 (1) Has at least 100 members;

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

283 (3) Prepares, provides, or engages a food vendor to provide adequate freshly prepared
284 food or meals to serve its stated members and guests who will be attending the temporary festival,
285 fair, or other event, and further shall provide any such documentation or agreements ~~of such~~ to
286 the commissioner prior to approval;

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

289 (5) Provides adequate restroom facilities, whether permanent or portable, to serve the

290 stated members and guests who will be attending the festival, fair, or other event;

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

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

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

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

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

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

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

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

307 (5) Owns or leases, controls, operates, and uses acreage amounting to more than one
308 acre but fewer than three acres, which are contiguous acres of bounded or fenced real property
309 which would be listed on the licensee's floorplan and would be used for hotel and conferences
310 and large contracted for group-type events such as weddings, reunions, conferences, meetings,
311 and sporting or recreational events;

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

316 structure or outdoors while on the private hotel's licensed premises and as noted on the private
317 hotel's floorplan;

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

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

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

322 (10) May provide members and guests who are verified by proper form of identification to
323 be 21 years of age or older to have secure access via key or key card to an in-room mini-bar in
324 their rented short-term accommodation; the mini-bar may be a small refrigerator not in excess of
325 1.6 cubic feet for the sale of nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, and
326 liquor sold from the original sealed container, and the refrigerator may contain: (A) any
327 combination of 12 fluid ounce cans or bottles not exceeding 72 fluid ounces of nonintoxicating
328 beer or nonintoxicating craft beer; (B) any combination of cans or bottles of wine or hard cider not
329 exceeding 750 ml of wine or hard cider; (C) liquor in bottles sized from 50 ml, 100 ml, and 200 ml,
330 with any combination of those liquor bottles not exceeding 750 ml; and (D) any combination of
331 canned or packaged food valued at least \$50. All markups, fees, and taxes shall be charged on
332 the sale of nonintoxicating beer, nonintoxicating craft beer, wine, and liquor. All nonintoxicating
333 beer or nonintoxicating craft beer available for sale shall be purchased from the licensed
334 distributor in the area where licensed. All wine or hard cider available for sale shall be purchased
335 from a licensed wine distributor or authorized farm winery. All liquor available for sale shall be
336 purchased from the licensed retail liquor outlet in the market zone of the licensed premises. The
337 mini-bar shall be checked daily and replenished as needed to benefit the member and guest.

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

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

341 (2) Offers short-term, daily rate accommodations or lodging for members and their guests

342 amounting to at least 50 separate bedrooms;

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

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

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

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

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

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

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

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

367 (11) May provide members and guests who are verified by proper form of identification to

368 be 21 years of age or older to have access via key or key card to an in-room mini-bar in their
369 rented short-term accommodation. The mini-bar may be a small refrigerator not in excess of 3.2
370 cubic feet for the sale of nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, and
371 liquor sold from the original sealed container, and the refrigerator may contain: (A) any
372 combination of 12 fluid ounce cans or bottles not exceeding 144 fluid ounces of nonintoxicating
373 beer or nonintoxicating craft beer; (B) any combination of cans or bottles of wine or hard cider not
374 exceeding one and a half liters of wine or hard cider; (C) liquor in bottles sized from 50 ml, 100
375 ml, 200 ml, and 375 ml with any combination of such liquor bottles not exceeding one and a half
376 liters; and (D) any combination of canned or packaged food valued at least \$100. All markups,
377 fees, and taxes shall be charged on the sale of nonintoxicating beer, nonintoxicating craft beer,
378 wine, and liquor. All nonintoxicating beer or nonintoxicating craft beer available for sale shall be
379 purchased from the licensed distributor in the area where licensed. All wine or hard cider available
380 for sale shall be purchased from a licensed wine distributor or authorized farm winery. All liquor
381 available for sale shall be purchased from the licensed retail liquor outlet in the market zone of
382 the licensed premises. The mini-bar shall be checked daily and replenished as needed to benefit
383 the member and guest.

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

386 (1) Has at least 100 members;

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

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

391 (4) Owns or leases, controls, operates, and uses acreage amounting to at least 80
392 contiguous acres of bounded or fenced real property which would be listed on the private golf
393 club's floorplan and could be used for golfing events and large contracted for group-type events

394 such as weddings, reunions, conferences, meetings, and sporting or recreational events;

395 (5) Lists the entire property from subdivision (4) of this subsection and all adjoining
396 buildings and structures on the private golf club's floorplan which would comprise the licensed
397 premises, which would be authorized for the lawful sales, service, and consumption of alcoholic
398 liquors throughout the licensed premises whether these activities were conducted in a building or
399 structure or outdoors while on the private golf club's licensed premises and as noted on the private
400 golf club's floorplan;

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

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

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

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

407 (1) Has at least 50 members;

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

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

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

417 (5) Lists the entire property from subdivision (4) of this subsection and all adjoining
418 buildings and structures on the private nine-hole golf course's floorplan which would comprise the
419 licensed premises, which would be authorized for the lawful sales, service, and consumption of

420 alcoholic liquors throughout the licensed premises whether these activities were conducted in a
421 building or structure or outdoors while on the private nine-hole golf course's licensed premises
422 and as noted on the private nine-hole golf course's floorplan;

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

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

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

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

429 (1) Has at least 100 members;

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

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

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

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

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

446 premises;

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

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

449 “Private college sports stadium” means an applicant for a private club or licensed private
450 club licensee that operates a college or university stadium for Division I, II, or III and involves a
451 college or university that is a member of the National Collegiate Athletic Association, or its
452 successor, and uses the facility for football, basketball, baseball, soccer, or other Division I, II, or
453 III sports, reserved weddings, reunions, conferences, meetings, or other special events and does
454 not maintain daily or regular operating hours as a bar or restaurant. The licensee may sell
455 alcoholic liquors when conducting or temporarily hosting noncollegiate sporting events. This
456 license may be issued in the name of the National Collegiate Athletic Association Division I, II, or
457 III college or university or the name of the primary food and beverage vendor under contract with
458 that college or university. All alcohol sales shall take place within the confines of the college
459 stadium: *Provided*, That any outside area approved for alcohol sales shall be surrounded by a
460 fence or other barrier prohibiting entry except upon the college or university’s express permission,
461 and under the conditions and restrictions established by the college or university, so that the
462 alcohol sales area is closed in order to prevent entry and access by the general public. Further
463 the applicant shall:

464 (A) Have at least 1000 members;

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

469 (C) Operate a restaurant and full kitchen with ovens and equipment that is equivalent or
470 greater than a private club restaurant, as determined by the commissioner, on the licensed
471 premises and capable of serving freshly prepared food, or meals to serve its stated members,

472 guests, and patrons who will be attending the event at the private college sports stadium;

473 (D) Own or lease, control, operate, and use acreage amounting to at least 2 contiguous
474 acres of bounded or fenced real property, as determined by the commissioner, which would be
475 listed on the private college stadium's floorplan and could be used for contracted for temporary
476 non-collegiate sporting events, group-type weddings, reunions, conferences, meetings, or other
477 events;

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

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

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

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

488 (p) "Private professional sports stadium" means an applicant for a private club or licensed
489 private club licensee that is only open for professional sporting events when ~~such~~ the events are
490 affiliated with or sponsored by a professional sporting association, reserved weddings, reunions,
491 conferences, meetings, or other special events and does not maintain daily or regular operating
492 hours as a bar or restaurant. The licensee may not sell alcoholic liquors when conducting or
493 hosting non-professional sporting events, and further the applicant shall:

494 (1) Have at least 1000 members;

495 (2) Maintain an open air or closed air stadium venue primarily used for sporting events,
496 such as football, baseball, soccer, auto racing, or other professional sports, and also weddings,
497 reunions, conferences, meetings, or other events where parties ~~must~~ shall reserve the stadium

498 venue in advance of the event;

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

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

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

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

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

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

518 ~~(9)~~ "Private farmers market" means an applicant for a private club or licensed private club
519 licensee that operates as an association of bars, restaurants, retailers who sell West Virginia
520 made products among other products, and other stores who open primarily during daytime hours
521 of 6:00 a.m. to 6:00 p.m., but may operate in the day or evenings for special events where the
522 sale of food and alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer may occur
523 for on-premises consumption, such as reserved weddings, reserved dinners, pairing events,

524 tasting events, reunions, conferences, meetings, or other special events and does not maintain
525 daily or regular operating hours as a bar or restaurant, and all business that are members of the
526 association have agreed in writing to be liable and responsible for all sales, service, furnishing,
527 tendering and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft
528 beer occurring on the entire licensed premises of the private farmer's market, including indoor
529 and outdoor bounded areas, and further the applicant shall:

530 (1) Have at least 100 members;

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

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

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

545 (5) Have an association that lists in the application for licensure the entire property and all
546 adjoining buildings and structures on the private farmers market's floorplan which would comprise
547 the licensed premises, which would be authorized for the lawful sales, service, and consumption
548 of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed
549 premises whether these activities were conducted in a building or structure or outdoors while on

550 the private farmers market's licensed premises and as noted on the private farmers market's
551 floorplan;

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

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

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

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

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

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

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

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

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

572 (1) Has at least 25 members;

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

576 (3) Operates a restaurant and full kitchen with ovens, as determined by the commissioner,
577 on the licensed premises and is capable of serving freshly prepared food, or may engage a food
578 caterer to provide adequate freshly prepared food or meals to serve its stated members, guests,
579 and patrons who will be attending the event at the private wedding venue or barn. The applicant
580 or licensee shall provide written documentation including a list of food caterers or written
581 agreements regarding any food catering operations to the commissioner prior to approval of a
582 food catering event;

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

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

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

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

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

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

- 602 (1) Has at least 100 members;
- 603 (2) Maintains an open air multi-sport complex primarily for use for sporting events, such
604 as baseball, soccer, basketball, tennis, frisbee, or other sports, but may also conduct weddings,
605 concerts, reunions, conferences, meetings, or other events where parties ~~must~~ shall reserve the
606 parts of the sports complex in advance of the sporting or other event;
- 607 (3) Operates a restaurant and full kitchen with ovens in the licensee's main facility, as
608 determined by the commissioner, on the licensed premises and capable of serving freshly
609 prepared food, or meals to serve its stated members, guests, and patrons who will be attending
610 the event at the private ~~professional sports stadium~~ multi-sport complex. A licensee may contract
611 with temporary food vendors or food trucks for food sales only, but not on a permanent basis, in
612 areas of the multi-sport complex not readily accessible by the main facility;
- 613 (4) Maintains, at any one time, \$1,000 of fresh food inventory capable of being prepared
614 in the private multi-sport complex's full kitchen. In calculating the food inventory, the commissioner
615 may not include television dinners, bags of chips, or similar products, microwavable meals, frozen
616 meals, prepackaged foods, or canned prepared foods;
- 617 (5) Owns or leases, controls, operates, and uses acreage amounting to at least 50
618 contiguous acres of bounded or fenced real property, as determined by the commissioner, which
619 would be listed on the private multi-sport complex's floorplan and could be used for contracted for
620 sporting events, group-type weddings, concerts, reunions, conferences, meetings, or other
621 events;
- 622 (6) Lists the entire property from subdivision (5) of this subsection and all adjoining
623 buildings and structures on the private multi-sport complex's floorplan which would comprise the
624 licensed premises, which would be authorized for the lawful sales, service, and consumption of
625 alcoholic liquors throughout the licensed premises whether these activities were conducted in a
626 building or structure or outdoors while on the private multi-sport complex's licensed premises and
627 as noted on the private multi-sport complex's floorplan. The licensee may sell alcoholic liquors

628 from a golf cart or food truck owned or leased by the licensee and also operated by the licensee
629 when the golf cart or food truck is located on the private multi-sport complex's licensed premises;

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

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

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

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

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

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

641 (b) The annual license fee for a license issued under the provisions of this article to a
642 private club other than a private club of the type specified in subsection (a) of this section is \$1,000
643 if the private club bar or restaurant has fewer than 1,000 members; \$1,000 for a private club
644 restaurant, private hotel, or private resort hotel to be licensed as a private caterer as defined in
645 §60-7-2 of this code; \$500 if the private club is a private bakery; \$1,500 if the private club is a
646 private wedding venue or barn or a private cigar shop; \$2,000 if the private club is a private nine-
647 hole golf course, private farmers market, private food truck, private college sports stadium, private
648 professional sports stadium, private multi-sport complex, private manufacturer club, or a private
649 tennis club as defined in §60-7-2 of this code; \$2,500 if the private club bar or private club
650 restaurant has 1,000 or more members; \$4,000 if the private club is a private hotel with three or
651 fewer designated areas or a private golf club as defined in §60-7-2 of this code; and further, if the
652 private club is a private resort hotel as defined in §60-7-2 of this code, the private resort hotel may

653 designate areas within the licensed premises for the lawful sale, service, and consumption of
654 alcoholic liquors as provided for by this article. The annual license fee for a private resort hotel
655 with five or fewer designated areas is \$7,500 and the annual license fee for a private resort hotel
656 with at least six, but no more than 10 designated areas is \$12,500. The annual license fee for a
657 private resort hotel with at least 11, but no more than 15 designated areas shall be \$17,500. The
658 annual license fee for a private resort hotel with no fewer than 15 nor more than 20 designated
659 areas is \$22,500. A private resort hotel that obtained the license and paid the \$22,500 annual
660 license fee may, upon application to and approval of the commissioner, designate additional areas
661 for a period not to exceed seven days for an additional fee of \$150 per day, per designated area.

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

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

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

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

678 (1) License fees for the license period beginning July 1, 2021, shall be reduced to one-

679 third of the rate set forth in subsections (a) and (b) of this section;

680 (2) License fees for the license period beginning July 1, 2022, shall be two-thirds of the
681 rate set forth in subsections (a) and (b) of this section; and

682 (3) License fees for the license period beginning July 1, 2023, and beyond, shall be as set
683 forth in subsections (a) and (b) of this section.

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.

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

692 (b) *Sales of wine.* — A licensed winery or farm winery with its principal place of business
693 and manufacture located in the State of West Virginia may, when licensed under this section,
694 offer only wine manufactured by the licensed winery or farm winery for retail sale to customers
695 from the winery or farm winery's licensed premises for consumption off of the licensed premises
696 only in the form of original container sealed wine kegs, wine bottles, or wine cans, or also a sealed
697 wine growler for personal consumption, and not for resale. A licensed winery or farm winery may
698 not sell, give, or furnish wine for consumption on the premises of the principal place of business
699 and manufacture located in the State of West Virginia, except for the limited purpose of
700 complimentary samples as permitted in subsection (c) of this section or unless separately licensed
701 as a private wine restaurant or a private manufacturer club.

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

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

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

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

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

724 Notwithstanding any other provision of this code to the contrary, a securely sealed wine growler
725 is not an open container under state and local law. A wine growler with a broken seal is an open
726 container under state and local law unless it is located in an area of the motor vehicle physically
727 separated from the passenger compartment. For purpose of this article, a secure seal means

728 using a tamper evident seal, such as: (1) A plastic heat shrink wrap band, strip, or sleeve
729 extending around the cap or lid of wine growler to form a seal that ~~must~~ shall be broken when the
730 container is opened; or (2) A screw top cap or lid that breaks apart when the wine growler is
731 opened.

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

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

746 (j) *Wine Growler sanitation.* — A licensed winery or farm winery authorized under this
747 section shall clean and sanitize all wine growlers it fills or refills in accordance with all state and
748 county health requirements prior to its filling and sealing. In addition, the licensed winery or farm
749 winery shall sanitize, in accordance with all state and county health requirements, all taps, tap
750 lines, pipelines, barrel tubes, and any other related equipment used to fill or refill growlers. Failure
751 to comply with this subsection may result in penalties under this article.

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

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

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

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.

762 Any proprietor or any person in charge of a dance house, concert saloon, theater,
 763 museum, or similar place of amusement, or other place, where wines or spirituous or malt liquors
 764 are sold or given away, or any place of entertainment injurious to health or morals who admits or
 765 permits to remain therein any minor under the age of 18 years, unless accompanied by his or her
 766 parent or guardian, is guilty of a misdemeanor and, on conviction thereof, shall be punished by a
 767 fine not exceeding \$200: *Provided*, That there is exemption from this prohibition for: (a) A private
 768 caterer, private club restaurant, private manufacturer club, private fair and festival, private resort
 769 hotel, private hotel, private golf club, private nine-hole golf course, private tennis club, private
 770 wedding venue or barn, private outdoor dining and private outdoor street dining, private multi-
 771 vendor fair and festival license, private farmers market, private professional sports stadium, and
 772 a private multi-sports complex licensed pursuant to §60-7-1 *et seq.* of this code and in compliance
 773 with §60-7-2(f)(445), §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)~~,
 774 §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-
 775 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-
 776 8c(b)(14), §60-7-8d, and §60-8-32a, of this code; or (b) a private club with more than 1,000

777 members that is in good standing with the Alcohol Beverage Control Commissioner, that has been
778 approved by the Alcohol Beverage Control Commissioner; and which has designated certain
779 seating areas on its licensed premises as nonalcoholic liquor and nonintoxicating beer areas, as
780 noted in the licensee's floorplan, by using a mandatory carding or identification program by which
781 all members or guests being served or sold alcoholic liquors, nonintoxicating beer, or
782 nonintoxicating craft beer are asked and required to provide their proper identification to verify
783 their identity and further that they are of legal drinking age, 21 years of age or older, prior to each
784 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 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.