

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 2055**

By Delegates D. Smith and W. Clark

[Introduced February 12, 2025; referred  
to the Committee on Government Organization]

1 A BILL to amend and reenact §60-4-3a, §60-7-2 and §60-8-2 of the Code of West Virginia, as  
2 amended; relating to addressing and making minor corrections in the Alcohol Beverage  
3 Control Administration ("ABCA") code sections correcting mistakes relating to a \$100  
4 requirement for canned or packaged food and mistaken listed percentage for fortified wine.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.**

### **ARTICLE**

### **4.**

### **LICENSES.**

#### **§60-4-3a. Distillery, mini-distillery, and micro-distillery license to manufacture and sell.**

1 (a) Sales of liquor. — An operator of a distillery, mini-distillery, or micro-distillery may offer  
2 liquor for retail sale to customers from the distillery, mini-distillery, or micro-distillery for  
3 consumption off-premises only. Except for samples offered pursuant to §60-6-1 of this code,  
4 customers may not consume any liquor on the premises of the distillery, mini-distillery, or micro-  
5 distillery, except for a distillery, mini-distillery, or micro-distillery that obtains a private manufacturer  
6 club license set forth in §60-7-1 *et seq.* of this code, and a Class A retail dealer license set forth in  
7 §11-16-1 *et seq.* of the code: *Provided*, That a licensed distillery, mini-distillery, or micro-distillery  
8 may offer samples of alcoholic liquors as authorized by this subsection when alcoholic liquors are  
9 manufactured by that licensed distillery, mini-distillery, or micro-distillery for consumption on the  
10 licensed premises. Notwithstanding any other provision of law to the contrary, a licensed distillery,  
11 mini-distillery, or micro-distillery may sell, furnish, and serve alcoholic liquors when licensed  
12 accordingly beginning at 6:00 a.m. unless otherwise determined by the residents of the county  
13 pursuant to §7-1-3ss of this code.

14 (b) Retail on-premises and off-premises consumption sales. — Every licensed distillery,  
15 mini-distillery, or micro-distillery shall comply with the provisions of §60-3A-9, §60-3A-11, §60-3A-  
16 13, §60-3A-16, §60-3A-17, §60-3A-18, §60-3A-19, §60-3A-22, §60-3A-23, §60-3A-24, §60-3A-  
17 25, and §60-3A-26 of this code, and the provisions of §60-3-1 *et seq.*, §60-4-1 *et seq.*, and §60-7-

1 *et seq.* of this code, applicable to liquor retailers, and distillers. In the interest of promoting tourism throughout the state, every licensed distillery, mini-distillery, or micro-distillery manufacturing liquor in this state is authorized, with a limited off-site retail privilege at private fairs and festivals, for on-premises consumption sales served by the drink or glass, off-premises consumption sales by the bottle of only the licensed distillery, mini-distillery, or micro-distillery's sealed liquor. At least five days prior to an approved private fair and festival, an authorized distillery, mini-distillery, or micro-distillery shall provide a copy of a written agreement to sell only liquor manufactured by the licensed distillery, mini-distillery, or micro-distillery at the private fair and festival's licensed premises. If approved, an authorized distillery, mini-distillery, or micro-distillery may conduct on-premises and off-premises consumption sales of its liquor from a designated booth at the private fair and festival as set forth in §60-7-8a of this code. All authorized and approved distilleries, mini-distilleries, and micro-distilleries' off-premises consumption sales shall comply with all retail requirements in §60-3A-1 *et seq.* of this code, and specifically §60-3A-17 of this code with respect to all markups, taxes, and fees and also all retail requirements of §60-7-1 *et seq.* of this code when applicable. Additionally, every authorized distillery, mini-distillery, and micro-distillery may provide samples to patrons who are 21 years of age and older and who are not intoxicated. The liquor samples of the licensed distillery, mini-distillery, or micro-distillery's product on any sampling day shall not exceed:

~~(1) Three separate and individual sample servings per customer verified to be 21 years of age or older; and~~

~~(2) Six ounces in total volume. Samples may be mixed with each other or with non-alcoholic liquids as long as the total amount of the liquor sampled does not exceed six ounces.~~

(c) Payment of taxes and fees. — The distillery, mini-distillery, or micro-distillery shall pay all taxes and fees required of licensed retailers and meet applicable licensing provisions as required by this chapter and by rule of the commissioner, except for payments of the wholesale markup percentage and the handling fee provided by rule of the commissioner: *Provided*, That all

44 liquor for sale to customers from the distillery, mini-distillery, or micro-distillery for off-premises  
45 consumption is subject of a five percent wholesale markup fee and an 80 cents per case bailment  
46 fee to be paid to the commissioner: *Provided, however,* That liquor sold by the distillery, mini-  
47 distillery, or micro-distillery shall not be priced less than the price set by the commissioner  
48 pursuant §60-3A-17 of this code.

49 (d) Payments to market zone retailers. — Each distillery, mini-distillery, or micro-distillery  
50 shall submit to the commissioner two percent of the gross sales price of each retail liquor sale for  
51 the value of all sales at the distillery, mini-distillery, or micro-distillery each month. Any sales by a  
52 distillery, mini-distillery, or micro-distillery at a private fair and festival are treated as occurring on  
53 their licensed premises for purposes of this market zone calculation. This collection shall be  
54 distributed by the commissioner, at least quarterly, to each market zone retailer located in the  
55 distillery, mini-distillery, or micro-distillery's market zone, proportionate to each market zone  
56 retailer's annual gross prior years pretax value sales. The maximum amount of market zone  
57 payments that a distillery, mini-distillery, or micro-distillery shall submit to the commissioner is  
58 \$15,000 per annum.

59 (e) Limitations on licensees. — A distillery, mini-distillery, or micro-distillery may not  
60 produce more than 50,000 gallons per calendar year. The commissioner may issue more than one  
61 distillery, mini-distillery, or micro-distillery license to a single person or entity and a person may  
62 hold both a distillery and a mini-distillery license. The owners of a licensed distillery, mini-distillery,  
63 or micro-distillery may operate a winery, farm winery, brewery, or as a resident brewer as  
64 otherwise specified in the code.

65 (f) Building code and tax classification. — Notwithstanding any provision of this code to the  
66 contrary, the mere addition of a distillery, mini-distillery, or micro-distillery licensed under this  
67 article on a property does not change the nature or use of the property which otherwise qualifies as  
68 agricultural use for building code and property tax classification purposes.

69 (g) A political subdivision of this state may not regulate any of the following activities of a

distillery, mini-distillery, or micro-distillery licensed and operating in accordance with this section:

(1) The on-premises sale, tasting, or consumption of liquor during business hours set forth in §60-7-12 of this code;

(2) The storage, warehousing, and wholesaling of liquor in accordance with the rules of the commissioner and federal law or regulations; or

(3) The sale of liquor related items including but not limited to the sale of pre-packaged food not requiring kitchen preparation that are incidental to the sale of liquor and on-premises consumption.

## **ARTICLE 7. LICENSES TO PRIVATE CLUBS.**

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

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

~~(1)~~ "Applicant" means a private club applying for a license under the provisions of this article.

~~(2)~~ "Code" means the official Code of West Virginia, 1931, as amended.

~~(3)~~ "Commissioner" means the West Virginia Alcohol Beverage Control Commissioner.

~~(4)~~ "Licensee" means the holder of a license to operate a private club granted under this article, which remains unexpired, unsuspended, and unrevoked.

~~(5)~~ "Private club" means any corporation or unincorporated association which either:

(A) Belongs to or is affiliated with a nationally recognized fraternal or veterans' organization which is operated exclusively for the benefit of its members, which pays no part of its income to its shareholders or individual members, which owns or leases a building or other premises to which are admitted only duly-elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their

17 guests;

18 (B) Is a nonprofit social club, which is operated exclusively for the benefit of its members,  
19 which pays no part of its income to its shareholders or individual members, which owns or leases a  
20 building or other premises to which are admitted only duly-elected or approved dues-paying  
21 members in good standing of the corporation or association and their guests while in the company  
22 of a member and to which club the general public is not admitted, and which maintains in the  
23 building or on the premises a suitable kitchen and dining facility with related equipment for serving  
24 food to members and their guests;

25 (C) Is organized and operated for legitimate purposes which has at least 100 duly- elected  
26 or approved dues-paying members in good standing, which owns or leases a building or other  
27 premises, including any vessel licensed or approved by any federal agency to carry or  
28 accommodate passengers on navigable waters of this state, to which are admitted only duly-  
29 elected or approved dues-paying members in good standing of the corporation or association and  
30 their guests while in the company of a member and to which the general public is not admitted, and  
31 which club maintains in the building or on the premises a suitable kitchen and dining facility with  
32 related equipment and employs a sufficient number of persons for serving meals to members and  
33 their guests; or

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

41 (6) "Private bakery" means an applicant for a private club or licensed private club license  
42 that has a primary function of operating a food preparation business that produces baked goods,

including brownies, cookies, cupcakes, confections, muffins, breads, cakes, wedding cakes, and other baked goods where the applicant or licensee desires to sell baked goods infused with liquor, wine, or nonintoxicating beer or nonintoxicating craft beer, included: (A) In the icing, syrup, drizzle, or some other topping; (B) as an infusion where the alcohol is not processed or cooked out of the baked goods; or (C) from an infusion packet containing alcohol no greater than 10 milliliters where the purchaser adds the alcohol. This applicant or licensee may not sell liquor, wine, or nonintoxicating beer or nonintoxicating craft beer for on-premises or off-premises consumption. The applicant or licensee may sell the baked goods with alcohol added as authorized for on-premises and off-premises consumption. Further, the applicant or licensee shall:

(i) Have at least 50 members;

(ii) Operate a kitchen that produces baked goods, as specified in this subdivision, including at least: (I) A baking oven and a four-burner range or hot plate; (II) a sink with hot and cold running water; (III) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for alcohol cold storage; (IV) baking utensils and pans, kitchen utensils, and other food consumption apparatus as determined by the commissioner; and (V) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(iii) Maintain, at any one time, a food inventory capable of being prepared in the private bakery's kitchen. In calculating the food inventory, the commissioner shall include television dinners, bags of chips or similar products, microwavable food or meals, frozen meals, pre-packaged foods, baking items such as flour, sugar, icing, and other confectionary items, or canned prepared foods;

(iv) Use an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 21 who are in the private bakery are not sold items containing alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, or wine. A person under 21 years of age may enter the shop and purchase other items not containing alcoholic liquors; and

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

~~(7)~~ "Private cigar shop" means an applicant for a private club or licensed private club licensee that has a primary function of operating a cigar shop for sales of premium cigars for consumption on or off the licensed premises. Where permitted by law, indoor on-premises cigar consumption is permitted with a limited food menu, which may be met by using a private caterer, for members and guests while the private club applicant or licensee is selling and serving liquor, wine, or nonintoxicating beer or nonintoxicating craft beer for on-premises consumption. Further, the applicant or licensee shall:

(A) Have at least 50 members;

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

(C) Maintain, at any one time, not less than a food inventory capable of being prepared in the private club bar's kitchen or have on hand at least \$150 in food provided by a private caterer. In calculating the food inventory, the commissioner shall include television dinners, bags of chips or similar products, microwavable food or meals, frozen meals, pre-packaged foods, or canned prepared foods;

(D) Use an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 21 who are in the private club bar are accompanied by a parent or legal guardian, and if a person under 21 years of age is not accompanied by a parent or legal guardian, that person may not be admitted as a guest; and

(E) Meet and is subject to all other private club requirements.

~~(8)~~ "Private caterer" means a licensed private club restaurant, private hotel, or private



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

102 (A) Have at least 10 members and guests attending the catering event;

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

105 (C) Operate a private club restaurant on a daily operating basis;

106 (D) Only use its employees, independent contractors, or volunteers to sell and serve  
107 alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer who have received certified  
108 training in verifying the legal identification, the age of a purchasing person, and the signs of visible,  
109 noticeable, and physical intoxication;

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

111 (i) 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 (ii) The name of the owner or operator of the unlicensed private venue;

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

116 (iv) 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 and where the space safely accounts  
119 for 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

time period as stated in the contract shall comprise the private caterer's licensed premises, which is authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer and nonintoxicating craft beer, and wine throughout the licensed private catering premises: *Provided*, That the unlicensed private venue shall: (I) Be inside a building or structure; (II) have other facilities to prepare and serve food and alcohol; (III) have adequate restrooms and sufficient building facilities for the number of members and guests expected to attend the private catering event; and (IV) otherwise be in compliance with health, fire, safety, and zoning requirements;

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

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

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

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

~~(9)~~ "Private club bar" means an applicant for a private club or licensed private club licensee that has a primary function for the use of the licensed premises as a bar for the sale and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer and wine when licensed for those sales, while providing a limited food menu for members and guests, and meeting the criteria set forth in this subdivision which:

(A) Has at least 100 members;

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

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

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

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

~~(40)~~ "Private food truck" means an applicant for a private club, licensed private club licensee, or licensed private manufacturer's club licensee that has a primary function of operating a food preparation business using an industrial truck, van, or trailer to prepare food and meals for sale at various locations within the state while using a propane or electric generator powered kitchen. The private food truck applicant shall obtain county or municipal approval to operate for food and liquor, wine, hard cider, and nonintoxicating beer or nonintoxicating craft beer sales and service, while providing a food menu for members and guests. The private food truck applicant shall:

(A) Have at least 10 members;

(B) Operate with a kitchen, including at least: (i) A two-burner hot plate, air fryer, or microwave oven; (ii) a sink with hot and cold running water; (iii) at least a 10 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for alcohol cold storage; and (iv) plastic or metal kitchen utensils and other food consumption apparatus as determined by the commissioner;

(C) Maintain, at any one time, not less than \$200 of food inventory that is fit for human consumption and capable of being prepared and served from the private food truck's kitchen during all hours of operation;

(D) Is sponsored, endorsed, or approved by the governing body or its designee of the county or municipality in which the private food truck is to be located and operated. Each location shall have a bounded and defined area and set hours for private food truck operations, sales, and consumption of alcohol that are not greater than a private club's hours of operation;

(E) Provide the commissioner with a list of all locations, including a main business location, where the private food truck operates, and is approved for sales pursuant to paragraph (D) of this section, and immediately update the commissioner when new locations are approved by a county or municipality;

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

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

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

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

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

(K) Licensed representatives of a brewer, resident brewer, beer distributor, wine distributor, wine supplier, winery, farm winery, distillery, mini-distillery, micro-distillery, and liquor broker representatives may attend a location where a private food truck is located and discuss their

199 respective products but may not engage in the selling, furnishing, tendering, or serving of any  
200 nonintoxicating beer or nonintoxicating craft beer, wine, or liquor.

201 (L) Use an age verification system approved by the commissioner for the purpose of  
202 verifying that persons under the age of 21 who are in the private club bar are not permitted to be  
203 served any alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, or wine but may be  
204 permitted to purchase food or other items;

205 (M) Obtain all permits required by §60-6-12 of this code; and

206 (N) Meet and be subject to all other applicable private club requirements.

207 (11) "Private club restaurant" means an applicant for a private club or licensed private club  
208 licensee that has a primary function of using the licensed premises as a restaurant for serving  
209 freshly prepared meals and dining in the restaurant area. The private club restaurant may have a  
210 bar area separate from or commingled within the restaurant where seating requirements for  
211 members and guests are met by including the restaurant area. The applicant for a private club  
212 restaurant license is an applicant which:

213 (A) Has at least 100 members;

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

219 (C) Maintains, at any one time, fresh food capable of being prepared in the private club  
220 restaurant's full kitchen. In calculating the food inventory, the commissioner may not include  
221 television dinners, bags of chips or similar products, microwavable meals, frozen meals, pre-  
222 packaged foods, or canned prepared foods;

223 (D) Uses an age verification system approved by the commissioner for the purpose of  
224 verifying that persons under 18 years of age who are in the bar area of a private club restaurant are

225 accompanied by a parent or legal guardian. The licensee may not seat a person in the bar area  
226 who is under the age of 18 years and who is not accompanied by a parent or legal guardian, but  
227 may allow that person, as a guest, to dine for food and nonalcoholic beverage purposes in the  
228 restaurant area of a private club restaurant:

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

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

244 (G) Meets and is subject to all other private club requirements.

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

- 251 (A) Has at least 100 members;
- 252 (B) Offers tours, may offer samples, and may offer space as a conference center or for  
253 meetings;
- 254 (C) Operates a restaurant and full kitchen with ovens, four-burner ranges, a refrigerator, or  
255 freezer, or some combination of a refrigerator and freezer, and other kitchen utensils and  
256 apparatus as determined by the commissioner on the licensed premises and serves food:  
257 *Provided*, That a licensee required by the provisions of this code to serve food on premises in  
258 order to lawfully serve alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, wine, or  
259 hard cider may meet the requirement of having on-premises food preparation facilities by, during  
260 all hours alcoholic liquors, beer, wine, and hard cider are offered for sale or sampling, having on-  
261 site an operating food truck or other portable kitchen: *Provided, however*, That the approval of the  
262 commissioner and the appropriate health department is required to operate as allowed by  
263 subsection (a) of this section;
- 264 (D) Maintains, at any one time fresh food capable of being prepared in the private  
265 manufacturer club's full kitchen. In calculating the food inventory, the commissioner may include  
266 television dinners, bags of chips or similar products, microwavable meals, frozen meals, pre-  
267 packaged foods, or canned prepared foods;
- 268 (E) Owns or leases, controls, operates, and uses space which is contiguous, bounded, or  
269 fenced real property sufficient to safely operate the licensed premises that would be listed on the  
270 licensee's floorplan and may be used for large events such as weddings, reunions, conferences,  
271 meetings, and sporting or recreational events;
- 272 (F) Lists the entire property from paragraph (E) of this subdivision and all adjoining  
273 buildings and structures on the private manufacturer club's floorplan that would comprise the  
274 licensed premises, which would be authorized for the lawful sale, service, and consumption of  
275 alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, and wine throughout the  
276 licensed premises, whether these activities were conducted in a building or structure or outdoors

277 while on the private manufacturer club's licensed premises, and as noted on the private  
278 manufacturer club's floorplan;

279 (G) Identifies a person, persons, an entity, or entities who or which have the right, title, and  
280 ownership or lease interest in the real property, buildings, and structures located on the proposed  
281 licensed premises;

282 (H) Uses an age verification system approved by the commissioner; and

283 (I) Meets and is subject to all other private club requirements.

284 (13) "Private fair and festival" means an applicant for a private club or a licensed private  
285 club licensee meeting the requirements of §60-7-8a of this code for a temporary event, and the  
286 criteria set forth in this subdivision which:

287 (A) Has at least 100 members;

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

291 (C) Prepares, provides, or engages a food vendor to provide adequate freshly prepared  
292 food or meals to serve its stated members and guests who will be attending the temporary festival,  
293 fair, or other event, and further shall provide any documentation or agreements to the  
294 commissioner prior to approval;

295 (D) Does not use third-party entities or individuals to purchase, sell, furnish, or serve  
296 alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer;

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

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

302 (G) Uses an age verification system approved by the commissioner; and



- 303 (H) Meets and is subject to all other private club requirements.
- 304 (14) "Private hotel" means an applicant for a private club or licensed private club licensee  
305 meeting the criteria set forth in this subsection which:
- 306 (A) Has at least 2,000 members;
- 307 (B) Offers short-term, daily rate accommodations or lodging for members and their guests  
308 amounting to at least 30 separate bedrooms, and also offers a conference center for meetings;
- 309 (C) Operates a restaurant and full kitchen with ovens, four-burner ranges, walk-in freezers,  
310 and other kitchen utensils and apparatus as determined by the commissioner on the licensed  
311 premises and serves freshly prepared food at least 20 hours per week;
- 312 (D) Maintains, at any one time, fresh food capable of being prepared in the private hotel's  
313 full kitchen. In calculating the food inventory, the commissioner may not include microwavable,  
314 frozen, or canned foods;
- 315 (E) Owns or leases, controls, operates, and uses acreage amounting to more than one  
316 acre but fewer than three acres, which are contiguous acres of bounded or fenced real property  
317 which would be listed on the licensee's floorplan and would be used for hotel and conferences and  
318 large contracted-for group-type events such as weddings, reunions, conferences, meetings, and  
319 sporting or recreational events;
- 320 (F) Lists the entire property from paragraph (E) of this subdivision and all adjoining  
321 buildings and structures on the private hotel's floorplan which would comprise the licensed  
322 premises, which would be authorized for the lawful sales, service, and consumption of alcoholic  
323 liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises  
324 whether these activities were conducted in a building or structure or outdoors while on the private  
325 hotel's licensed premises and as noted on the private hotel's floorplan;
- 326 (G) Has an identified person, persons, or entity that has right, title, and ownership or lease  
327 interest in the real property buildings and structures located on the proposed licensed premises;
- 328 (H) Uses an age verification system approved by the commissioner;

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

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

~~(15)~~ "Private resort hotel" means an applicant for a private club or licensed private club licensee which:

(A) Has at least 5,000 members;

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

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

(D) Maintains, at any one time, fresh food capable of being prepared in the private resort hotel's full kitchen. In calculating the food inventory, the commissioner may not include microwavable, frozen, or canned foods;

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

(F) Lists the entire property from paragraph (E) of this subdivision and all adjoining buildings and structures on the private resort hotel's floorplan comprising the licensed premises which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private resort hotel's licensed premises;

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

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

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

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

(K) May provide members and guests who are verified by proper form of identification to be 21 years of age or older to have access via key or key card to an in-room mini-bar in their rented short-term accommodation. The mini-bar may be a small refrigerator not in excess of 3.2 cubic feet for the sale of nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, and liquor sold from the original sealed container, and the refrigerator may contain: (i) Any combination of 12 fluid

ounce cans or bottles not exceeding 144 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; (ii) any combination of cans or bottles of wine or hard cider not exceeding one and a half liters of wine or hard cider; (iii) liquor in bottles sized from 50 ml, 100 ml, 200 ml, and 375 ml with any combination of such liquor bottles not exceeding one and a half liters; and (iv) any combination of canned or packaged food ~~valued at least \$100~~. All markups, fees, and taxes shall be charged on the sale of nonintoxicating beer, nonintoxicating craft beer, hard cider, wine, and liquor. All nonintoxicating beer or nonintoxicating craft beer available for sale shall be purchased from the licensed distributor in the area where licensed. All wine or hard cider available for sale shall be purchased from a licensed wine distributor or authorized farm winery. All liquor available for sale shall be purchased from the licensed retail liquor outlet in the market zone of the licensed premises. The mini-bar shall be checked daily and replenished as needed to benefit the member and guest.

(16) "Private golf club" means an applicant for a private club or licensed private club licensee which:

- (A) Has at least 100 members;
- (B) Maintains at least one 18-hole golf course with separate and distinct golf playing holes, not reusing nine golf playing holes to comprise the 18 golf playing holes, and a clubhouse;
- (C) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and serves freshly prepared food at least 15 hours per week;
- (D) Owns or leases, controls, operates, and uses acreage amounting to at least 80 contiguous acres of bounded or fenced real property which would be listed on the private golf club's floorplan and could be used for golfing events and large contracted-for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;
- (E) Lists the entire property from paragraph (D) of this subsection and all adjoining buildings and structures on the private golf club's floorplan comprising the licensed premises which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and

407 nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these  
408 activities were conducted in a building or structure or outdoors while on the private golf club's  
409 licensed premises;

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

412 (G) Uses an age verification system approved by the commissioner; and

413 (H) Meets and is subject to all other private club requirements.

414 (17) "Private nine-hole golf course" means an applicant for a private club or licensed  
415 private club licensee which:

416 (A) Has at least 50 members;

417 (B) Maintains at least one nine-hole golf course with separate and distinct golf playing  
418 holes;

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

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

425 (E) Lists the entire property from paragraph (D) of this subdivision and all adjoining  
426 buildings and structures on the private nine-hole golf course's floorplan comprising the licensed  
427 premises which would be authorized for the lawful sales, service, and consumption of alcoholic  
428 liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises  
429 whether these activities were conducted in a building or structure or outdoors while on the private  
430 nine-hole golf course's licensed premises;

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

433 (G) Uses an age verification system approved by the commissioner; and

434 (H) Meets and is subject to all other private club requirements.

435 ~~(18)~~ "Private tennis club" means an applicant for a private club or licensed private club  
436 licensee which:

437 (A) Has at least 100 members;

438 (B) Maintains at least four separate and distinct tennis courts, either indoor or outdoor, and  
439 a clubhouse or similar facility;

440 (C) Has a restaurant and full kitchen with ovens, as determined by the commissioner, on  
441 the licensed premises which is capable of serving freshly prepared food;

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

446 (E) Lists the entire property from paragraph (D) of this subdivision and all adjoining  
447 buildings and structures on the private tennis club's floorplan comprising the licensed premises  
448 which would be authorized for the lawful sales, service, and consumption of alcoholic liquors  
449 throughout the licensed premises whether these activities were conducted in a building or  
450 structure or outdoors while on the private tennis club's licensed premises;

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

454 (G) Meets and is subject to all other private club requirements; and

455 (H) Uses an age verification system approved by the commissioner.

456 ~~(19)~~ "Private college sports stadium" means an applicant for a private club or licensed  
457 private club licensee that operates a college or university stadium or coliseum for Division I, II, or III  
458 sports and that involves a college public or private or university that is a member of the National

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

(A) Have at least 100 members;

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

(C) Operate a restaurant and full kitchen with ovens and equipment that is equivalent or greater than a private club restaurant, as determined by the commissioner, on the licensed premises that is capable of serving freshly prepared food or meals to its stated members, guests, and patrons who will be attending the event at the private college sports stadium;

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

485 events;

486 (E) List the entire property from paragraph (D) of this subdivision and all adjoining buildings  
487 and structures on the private college sports stadium's floorplan which would comprise the licensed  
488 premises, which would be authorized for the lawful sales, service, and consumption of alcoholic  
489 liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises  
490 whether these activities were conducted in a building or structure or outdoors while on the private  
491 college sports stadium's licensed premises and as noted on the private college sports stadium's  
492 floorplan;

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

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

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

497 (20) "Private professional sports stadium" means an applicant for a private club or licensed  
498 private club licensee that is only open for professional sporting events when the events are  
499 affiliated with or sponsored by a professional sporting association, reserved weddings, reunions,  
500 conferences, meetings, or other special events and does not maintain daily or regular operating  
501 hours as a bar or restaurant. The licensee may not sell alcoholic liquors and nonintoxicating beer  
502 or nonintoxicating craft beer when conducting or hosting non-professional sporting events, and  
503 further the applicant shall:

504 (A) Have at least 1,000 members;

505 (B) Maintain an open-air or enclosed stadium venue primarily used for sporting events,  
506 such as football, baseball, soccer, auto racing, or other professional sports, and also weddings,  
507 reunions, conferences, meetings, or other events where parties reserve the stadium venue in  
508 advance of the event;

509 (C) Operate a restaurant and full kitchen with ovens, as determined by the commissioner,  
510 on the licensed premises which is capable of serving freshly prepared food or meals to serve its



511 stated members, guests, and patrons who will be attending the event at the private professional  
512 sports stadium;

513 (D) Own or lease, control, operate, and use acreage amounting to at least three contiguous  
514 acres of bounded or fenced real property, as determined by the commissioner, which would be  
515 listed on the professional sports stadium's floorplan and could be used for contracted- for  
516 professional sporting events, group-type weddings, reunions, conferences, meetings, or other  
517 events;

518 (E) List the entire property from paragraph (D) of this subdivision and all adjoining buildings  
519 and structures on the private professional sports stadium's floorplan comprising the licensed  
520 premises which would be authorized for the lawful sales, service, and consumption of alcoholic  
521 liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises  
522 whether these activities were conducted in a building or structure or outdoors while on the private  
523 professional sports stadium's licensed premises;

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

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

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

528 ~~(24)~~ "Private farmers market" means an applicant for a private club or licensed private club  
529 licensee that operates as an association of bars, restaurants, and retailers who sell West Virginia-  
530 made products among other products, and other stores who open primarily during daytime hours  
531 of 6:00 a.m. to 6:00 p.m., but may operate in the day or evenings for special events where the sale  
532 of food and alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer may occur for  
533 on-premises consumption, such as reserved weddings, reserved dinners, pairing events, tasting  
534 events, reunions, conferences, meetings, or other special events and does not maintain daily or  
535 regular operating hours as a bar or restaurant. All businesses that are members of the association  
536 shall agree in writing to be liable and responsible for all sales, service, furnishing, tendering, and

consumption of alcoholic liquors, nonintoxicating beer, nonintoxicating craft beer, wine, and hard cider occurring on the entire licensed premises of the private farmer's market, including indoor and outdoor bounded areas, and further the applicant shall:

(A) Have at least 100 members;

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

(C) Have one or more members operating a private club restaurant who maintain, at any one time, fresh food capable of being prepared for events conducted at the private farmers market in the private club restaurant's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned prepared foods;

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

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

(F) Have an identified person, persons, or entity that has right, title, and ownership or lease

interest in the real property buildings and structures located on the proposed licensed premises;

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

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

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

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

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

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

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

~~(22)~~ "Private wedding venue or barn" means an applicant for a private club or licensed private club licensee that is only open for reserved weddings, reunions, conferences, meetings, or other events and does not maintain daily or regular operating hours, and which:

(A) Has at least 25 members;

(B) Maintains a venue, facility, barn, or pavilion primarily used for weddings, reunions, conferences, meetings, or other events where parties reserve or contract for the venue, facility, barn, or pavilion in advance of the event;

(C) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises that is capable of serving freshly prepared food, or engages a food caterer to provide adequate freshly prepared food or meals to serve its stated members, guests,

and patrons who will be attending the event at the private wedding venue or barn. The applicant or licensee shall provide written documentation including a list of food caterers or written agreements regarding any food catering operations to the commissioner prior to approval of a food catering event;

(D) Owns or leases, controls, operates, and uses space sufficient to safely operate the licensed premises. The applicant or licensee shall verify that, the property is not less than two acres and is remotely located, subject to the commissioner's approval. The bounded or fenced real property may be listed on the private wedding venue's or barn's floorplan and may be used for large events such as weddings, reunions, conferences, meetings, or other events;

(E) Lists the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private wedding venue or barn's floorplan that would comprise the licensed premises which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private wedding venue or barn's licensed premises;

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

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

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

~~(23)~~ "Private multi-sport complex" means an applicant for a private club or licensed private club licensee that is open for multiple sports events to be played at the complex facilities, reserved weddings, concerts, reunions, conferences, meetings, or other special events, and which:

(A) Has at least 100 members;

(B) Maintains an open-air multi-sport complex primarily for use for sporting events, such as baseball, soccer, basketball, tennis, frisbee, or other sports, but may also conduct weddings, concerts, reunions, conferences, meetings, or other events where parties reserve the parts of the

sports complex in advance of the sporting or other event;

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

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

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

(F) Lists the entire property from paragraph (E) of this subdivision and all adjoining buildings and structures on the private multi-sport complex's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors, nonintoxicating beer, nonintoxicating craft beer, and hard cider throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private multi-sport complex's licensed premises and as noted on the private multi-sport complex's floorplan. The licensee may sell alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer from a golf cart or food truck owned or leased by the licensee and also operated by the licensee when the golf cart or food truck is located on the private multi-sport complex's licensed premises;

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

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

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

~~(24)~~ "Private coliseum or center" means an applicant for a private club or licensed private club licensee that is open for various events including, but not limited to, musical concerts, bands, sporting events, monster trucks, sports entertainment events, circuses, expos, hobby events, tradeshow, health events, reserved weddings, reunions, retreats, conventions, conferences, meetings, or other special events. The licensee may not sell alcoholic liquors, nonintoxicating beer or wine when conducting or hosting events focused on patrons who are less than 21 years of age, and further the applicant shall:

(A) Have at least 5,000 members;

(B) Maintain an enclosed coliseum or center venue with at least 80,000 square feet of event space primarily used for events where parties reserve the coliseum or center venue in advance of the event;

(C) Operate a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and be capable of serving freshly prepared food or meals to its stated members, guests, and patrons who will be attending events at the private coliseum or center;

(D) Own or lease, control, operate, and use acreage amounting to at least two contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the private coliseum or center's floorplan and could be used for contracted-for events, or a private fair and festival, as authorized by the commissioner per dual licensing requirements as set forth in §60-7-2a of this code;

(E) List the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private coliseum or center's floorplan comprising the licensed premises which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and

667 nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these  
668 activities were conducted in a building or structure or outdoors while on private coliseum or  
669 center's licensed premises;

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

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

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

674 ~~(25)~~ "Private food court" means an applicant who qualifies for a private club restaurant or  
675 licensed private club restaurant licensee that operates in a facility within a licensed premises with  
676 one licensed floorplan that includes an association of other inter-connected licensed private club  
677 restaurants or unlicensed restaurants that operate legally without alcohol sales, where all  
678 businesses that are licensed members of the association have agreed in writing to be liable and  
679 responsible for all sales, service, furnishing, tendering, and consumption of alcoholic liquors and  
680 nonintoxicating beer or nonintoxicating craft beer occurring on the entire licensed premises of the  
681 private food court, and further the applicant shall:

682 (A) Have at least 100 members;

683 (B) Have at least one member of its association who qualifies for a private club restaurant  
684 containing a full kitchen with ovens, four-burner ranges, a refrigerator or freezer or some  
685 combination of a refrigerator and freezer, and other kitchen utensils and apparatus as determined  
686 by the commissioner on the licensed premises and be capable of serving freshly prepared food at  
687 least 15 hours per week in the private food court;

688 (C) Have at least one member of its association who qualifies for a private club restaurant  
689 who maintains, at any one time, fresh food capable of being prepared in the private club  
690 restaurant's full kitchen, and in calculating the food inventory the commissioner may not include  
691 television dinners, bags of chips or similar products, microwavable meals, frozen meals, pre-  
692 packaged foods, or canned prepared foods;

(D) Have an association that owns or leases, controls, operates, and uses a facility that meets requirements of this article, and the entire facility is listed on the licensee's floorplan as its licensed premises;

(E) Have an association that lists in the application for licensure the entire facility and any inter-connected and adjoining structures on the private food court's floorplan which would compromise the licensed premises, and which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure while on the private food court's licensed premises and as noted on the private food court's licensed floorplan;

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

(G) Have at least one separate and unrelated business applying for the license and certifying that all licensed businesses in the association have agreed to the liability responsibility associated with a private food court license;

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

(I) Provide adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the private food court;

(J) Provide a copy of a written agreement between all the vendors of the association that is executed by all businesses stating that each licensed vendor is jointly and severally liable for any violations of this chapter committed on the licensed premises;

(K) Provide a security plan indicating all businesses who will be selling and serving alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer, list non-licensees who will be selling and serving food, list all entrances, and list all exits, provide a plan to verify the ages of members, patrons, and guests, a plan to verify whether a member, patron, or guest is intoxicated,



and a plan to provide for the public health and safety of members, patrons, and guests;

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

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

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

## **ARTICLE 8. SALE OF WINES.**

### **§60-8-2. Definitions.**

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

"Commissioner" or "commission" means the West Virginia Alcohol Beverage Control Commissioner.

"Distributor" means any person whose principal place of business is within the State of West Virginia who makes purchases from a supplier to sell or distribute wine to retailers, grocery stores, private wine bed and breakfasts, private wine restaurants, private wine spas, private clubs, or wine specialty shops and that sells or distributes nonfortified dessert wine, port, sherry, and Madeira wines to wine specialty shops, private wine restaurants, private clubs, or retailers under authority of this article and maintains a warehouse in this state for the distribution of wine. For the purpose of a distributor only, the term "person" means and includes an individual, firm, trust, partnership, limited partnership, limited liability company, association, or corporation. Any trust licensed as a distributor or any trust that is an owner of a distributor licensee, and the trustee or other persons in active control of the activities of the trust relating to the distributor license, is liable for acts of the trust or its beneficiaries relating to the distributor license that are unlawful acts or violations of this article, notwithstanding the liability of trustees in §44D-10-1 *et seq.* of this code.

17 "Fortified wine" means any wine to which brandy or other alcohol has been added where  
18 the alcohol content by volume does not exceed 24 percent, and includes nonfortified dessert  
19 wines where the alcohol content by volume is greater than 17 percent and does not exceed 24  
20 percent.

21 "Grocery store" means any retail establishment, commonly known as a grocery store,  
22 supermarket, delicatessen, caterer, or party supply store, where food, food products, and supplies  
23 for the table are sold for consumption off the premises with average monthly sales (exclusive of  
24 sales of wine) of not less than \$500 and an average monthly inventory (exclusive of inventory of  
25 wine) of not less than \$500. The term "grocery store" also includes and means a separate and  
26 segregated portion of any other retail store which is dedicated solely to the sale of food, food  
27 products, and supplies for the table for consumption off the premises with average monthly sales  
28 with respect to the separate or segregated portion, exclusive of sales of wine, of not less than  
29 \$500 and an average monthly inventory, exclusive of inventory of wine, of not less than \$500.

30 "Hard Cider" means a type of wine that is derived primarily from the fermentation of apples,  
31 pears, peaches, honey, or another fruit, or from apple, pear, peach, or another fruit juice  
32 concentrate and water; contains no more than 0.64 grams of carbon dioxide per 100 milliliters;  
33 contains at least one half of one percent and less than 12 and one-half percent alcohol by volume;  
34 and is advertised, labeled, offered for sale, or sold, as hard cider or cider containing alcohol, and  
35 not as wine, wine product, or as a substitute for wine.

36 "Hard Cider Distributor" means any person whose principal place of business is within the  
37 State of West Virginia who makes purchases from a supplier to sell or distribute hard cider, but not  
38 other types of wine, to retailers, grocery stores, private wine bed and breakfasts, private wine  
39 restaurants, private wine spas, private clubs, or wine specialty shops under authority of this code  
40 and maintains a warehouse in this state for the distribution of hard cider, but not other types of  
41 wine. For the purpose of a hard cider distributor, the term "person" means and includes an  
42 individual, firm, trust, partnership, limited partnership, limited liability company, association, or

corporation. Any trust licensed as a distributor or any trust that is an owner of a distributor licensee, and the trustee, or any other person or persons in active control of the activities of the trust relating to the distributor license, is liable for acts of the trust or its beneficiaries relating to the distributor license that are unlawful acts or violations of this article, notwithstanding the liability of trustees in §44D-10-1 *et seq.* of this code.

"Licensee" means the holder of a license granted under the provisions of this article.

"Nonfortified dessert wine" means a wine that is a dessert wine to which brandy or other alcohol has not been added, and which has an alcohol content by volume of at least 15.6 percent and less than or equal to 17 percent.

"Person" means and includes an individual, firm, partnership, limited partnership, limited liability company, association, or corporation.

"Private wine bed and breakfast" means any business with the sole purpose of providing, in a residential or country setting, a hotel, motel, inn, or other such establishment properly zoned as to its municipality or local ordinances, lodging and meals to its customers in the course of their stay at the establishment, which business also: (1) Is a partnership, limited partnership, corporation, unincorporated association, or other business entity which as part of its general business purpose provides meals on its premises to its members and their guests; (2) is licensed under the provisions of this article as to all of its premises or as to a separate segregated portion of its premises to serve wine to its members and their guests when the sale accompanies the serving of food or meals; and (3) admits only duly elected and approved dues-paying members and their guests while in the company of a member and does not admit the general public.

"Private wine restaurant" means a restaurant which: (1) Is a partnership, limited partnership, corporation, unincorporated association, or other business entity which has, as its principal purpose, the business of serving meals on its premises to its members and their guests; (2) is licensed under the provisions of this article as to all of its premises or as to a separate segregated portion of its premises to serve wine to its members and their guests when the sale

69 accompanies the serving of food or meals; and (3) admits only duly elected and approved dues-  
70 paying members and their guests while in the company of a member and does not admit the  
71 general public. Private clubs that meet the private wine restaurant requirements in this definition  
72 shall be considered private wine restaurants: *Provided*, That, a private wine restaurant shall have  
73 at least two restrooms: *Provided, however*, That the two restroom requirement may be waived by a  
74 written waiver provided from a local health department to the commissioner: *And provided further*,  
75 That a private wine restaurant located in an historic building may also be relieved of the two  
76 restroom requirement if a historic association or district with jurisdiction over a historic building  
77 provides a written waiver of the requirement to the commissioner: *And provided further*, That in no  
78 event shall a private wine restaurant have less than one restroom. *And provided further*, That a  
79 winery or farm winery holding a private wine restaurant license or a multi-capacity winery or farm  
80 winery license is not subject to the food service requirements of this subdivision.

81 "Private wine spa" means any business with the sole purpose of providing commercial  
82 facilities devoted especially to health, fitness, weight loss, beauty, therapeutic services, and  
83 relaxation, and may also be a licensed massage parlor or a salon with licensed beauticians or  
84 stylists, which business also: (1) Is a partnership, limited partnership, corporation, unincorporated  
85 association, or other business entity which as part of its general business purpose provides meals  
86 on its premises to its members and their guests; (2) is licensed under the provisions of this article  
87 as to all of its premises or as to a separate segregated portion of its premises to serve up to two  
88 glasses of wine to its members and their guests when the sale accompanies the serving of food or  
89 meals; and (3) admits only duly elected and approved dues-paying members and their guests  
90 while in the company of a member, and does not admit the general public.

91 "Retailer" means any person licensed to sell wine at retail to the public at his or her  
92 established place of business for off-premises consumption and who is licensed to do so under  
93 authority of this article.

94 "Supplier" means any manufacturer, producer, processor, winery, farm winery, national

distributor, or other supplier of wine who sells or offers to sell or solicits or negotiates the sale of wine to any licensed West Virginia distributor.

"Table wine" means a wine with an alcohol content by volume between 0.5 percent and 15.5 percent.

"Tax" includes within its meaning interest, additions to tax, and penalties.

"Taxpayer" means any person liable for any tax, interest, additions to tax, or penalty under the provisions of this article, and any person claiming a refund of tax.

"Varietal wine" means any wine labeled according to the grape variety from which the wine is made.

"Vintage wine" or "vintage-dated wine" means wines from which the grapes used to produce the wine are harvested during a particular year, or wines produced from the grapes of a particular harvest in a particular region of production.

"Wine" means any alcoholic beverage obtained by the natural fermentation of the natural content of grapes, other fruits, or honey or other agricultural products containing sugar to which no alcohol has been added and includes table wine, hard cider, nonfortified dessert wine, wine coolers, and other similar wine-based beverages. Fortified wine and any product defined as or contained within the definition of nonintoxicating beer under the provisions of §11-16-1 *et seq.*, of this code are excluded from this definition of wine.

"Wine specialty shop" means a retailer who deals principally in the sale of table wine, nonfortified dessert wines, wine accessories, and food or foodstuffs normally associated with wine and: (1) Who maintains a representative number of wines for sale in his or her inventory which are designated by label as varietal wine, vintage, generic, and/or according to region of production and the inventory shall contain not less than 15 percent vintage or vintage-dated wine by actual bottle count; and (2) who, any other provisions of this code to the contrary notwithstanding, may maintain an inventory of port, sherry, and Madeira wines having an alcoholic content of not more than ~~22~~ 24 percent alcohol by volume and which have been matured in wooden barrels or casks. All wine

- 121 available for sale shall be for off-premises consumption except where wine tasting or wine  
122 sampling is separately authorized by this code.

NOTE: The purpose of this bill is to make minor corrections in the Alcohol Beverage Control Administration ("ABCA") code sections correcting mistakes relating to a \$100 requirement for canned or packaged food and mistaken listed percentage for fortified wine.

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