

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2064

By Delegate W. Clark

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

1 A BILL to amend and reenact §60-7-8d §60-7-8e and §60-8-32a of the Code of West Virginia,
2 1931, as amended; relating to private clubs sale and service of alcoholic liquor,
3 nonintoxicating beer or nonintoxicating craft beer, and where wine may be sold and
4 served; and providing limitations on sealed craft cocktail or wine growlers sold to persons
5 who have dined in an establishment, or a patron who is in vehicle while picking up food or a
6 meal and ordered a sealed craft cocktail or wine growler.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-8d. Where private clubs may sell and serve alcoholic liquors and nonintoxicating

beer or nonintoxicating craft beer.

1 (a) With prior approval of the commissioner a private club licensee may sell, serve, and
2 furnish alcoholic liquor and, if also licensed to sell, serve, and furnish nonintoxicating beer or
3 nonintoxicating craft beer to be consumed on premises in a legally demarcated area which may
4 include a temporary private outdoor dining area or temporary private outdoor street dining area. A
5 temporary private outdoor street dining area shall be approved by the municipal government or
6 county commission in which the licensee operates. The commissioner shall develop and make
7 available an application form to facilitate the purposes of this subsection.

8 (b) The private club licensee shall submit to the commissioner: (1) the municipal or county
9 approval of the private outdoor dining area or private outdoor street dining area; and, (2) a revised
10 floorplan requesting to sell alcoholic liquors, and when licensed for nonintoxicating beer or
11 nonintoxicating craft beer, then nonintoxicating beer or nonintoxicating craft beer, subject to the
12 commissioner's requirements, in an approved and bounded outdoor area. The approved and
13 bounded area need not be adjacent to the licensee's licensed premises, but in close proximity, for
14 private outdoor street dining or private outdoor dining. For purposes of this subsection, "close
15 proximity" means an available area within 300 feet of a licensee's licensed premises and under the
16 licensee's control and with right of ingress and egress.

(c) This private outdoor dining or private outdoor street dining may be operated in conjunction with a private wine outdoor dining or private wine outdoor street dining area set forth in §60-8-32a of this code and nonintoxicating beer or nonintoxicating craft beer outdoor dining or outdoor street dining set forth in §11-16-9 of this code.

(d) For purposes of this section, private outdoor dining and private outdoor street dining include dining areas that are:

(1) Outside and not served by an HVAC system for air handling services and use outside air;

(2) Open to the air; and

(3) Not enclosed by fixed or temporary walls; however, the commissioner may seasonally approve a partial enclosure with up to three temporary or fixed walls.

Any area where seating is incorporated inside a permanent building with ambient air through HVAC is not considered outdoor dining pursuant to this subsection.

(e) A private club restaurant or a private manufacturer club licensed for craft cocktail growler sales must provide food or a meal along with sealed craft cocktail growler sales as set forth in this article to a patron who is (i) in-person or in-vehicle while picking up food or a meal, or (ii) in-person to a patron having dined on food or a meal, and (iii) has ordered a sealed craft cocktail growler order-to-go, subject to verification that the purchasing person is 21 years of age or older, and not visibly, or noticeably intoxicated, and as otherwise specified in this article.

§60-7-8e. Private club restaurant or private manufacturer club licensee's authority to sell craft cocktail growlers.

(a) *Legislative findings.* — The Legislature hereby finds that it is in the public interest to regulate, control, and support the brewing, manufacturing, distribution, sale, consumption, transportation, and storage of liquor and its industry in this state to protect the public health, welfare, and safety of the citizens of this state and promote hospitality and tourism. Therefore, this section authorizes a licensed private club restaurant or private manufacturer club, to have certain

6 abilities to promote the sale of liquor manufactured in this state for the benefit of the citizens of this
7 state, the state's growing distilling industry, and the state's hospitality and tourism industry, all of
8 which are vital components for the state's economy.

9 (b) *Sales of craft cocktail growlers.* — A licensed private club restaurant or private
10 manufacturer club is authorized under a current and valid license and meets the requirements of
11 this section may offer a craft cocktail growler in the ratio of up to one fluid ounce of liquor to four
12 fluid ounces of nonalcoholic beverages or mixers, not to exceed 128 fluid ounces for the entire
13 beverage in the craft cocktail growler, for retail sale to patrons from their licensed premises in a
14 sealed craft cocktail growler for personal consumption only off of the licensed premises. Prior to
15 the sale, the licensee shall verify in-person, using proper identification, that any patron purchasing
16 the craft cocktail growler is 21 years of age or older and that the patron is not visibly or noticeably
17 intoxicated. There shall be a \$100 non-prorated, non-refundable annual fee to sell craft cocktail
18 growlers.

19 (c) *Retail sales.* — Every licensee licensed under this section shall comply with all the
20 provisions of this chapter as applicable to retail sale of liquor at retail liquor outlets, comply with
21 markup specified in §60-3A-17(e)(2) of this code when conducting sealed craft cocktail growler
22 sales, and shall be subject to all applicable requirements and penalties in this article.

23 (d) *Payment of taxes.* — Every licensee licensed under this section shall pay all sales
24 taxes required of retail liquor outlets, in addition to any other taxes required, and meet any
25 applicable licensing provisions as required by this chapter and by rule of the commissioner.

26 (e) *Advertising.* — Every licensee licensed under this section may only advertise a
27 particular brand or brands of liquor manufactured by a distillery, mini-distillery, or micro-distillery
28 upon written approval from the distillery, mini-distillery, micro-distillery, or an authorized and
29 licensed broker to the licensee. Advertisements may not encourage intemperance or target
30 minors.

31 (f) *Craft cocktail growler defined.* — For purposes of this chapter, "Craft Cocktail Growler"

means a container or jug that is made of glass, ceramic, metal, plastic, or other material approved by the commissioner, that may be no larger than 128 fluid ounces in size and must be capable of being securely sealed. The growler is utilized by an authorized licensee for purposes of off-premises sales only of liquor and a nonalcoholic mixer or beverage for personal consumption not on a licensed premise. Notwithstanding any other provision of this code to the contrary, a securely sealed craft cocktail growler is not an open container under state and local law. A craft cocktail growler with a broken seal is an open container under state and local law unless it is located in an area of the motor vehicle physically separated from the passenger compartment. A craft cocktail growler is not an original container of liquor, but once sanitized, filled, properly sealed, and sold, all as set forth in this article, is a sealed container.

~~(h)~~ (g) *Craft cocktail growler requirements.* — A licensee licensed under this section must prevent patrons from accessing the secure area where the filling of the craft cocktail occurs or to fill a craft cocktail growler. A licensee licensed under this section must sanitize, fill, securely seal, and label any craft cocktail growler prior to its sale. A licensee licensed under this section may refill a craft cocktail growler subject to the requirements of this section. A licensee licensed under this section shall visually inspect any craft cocktail growler before filling or refilling it. A licensee licensed under this section may not fill or refill any craft cocktail growler that appears to be cracked, broken, unsafe, or otherwise unfit to serve as a sealed beverage container. For purposes of this article, a secure sealing means using a tamper-evident seal, such as: (1) A plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid of craft cocktail growler to form a seal that must be broken when the container is opened; or (2) A screw top cap or lid that breaks apart when the craft cocktail growler is opened.

~~(i)~~ (h) *Craft cocktail growler labeling.* — A licensee licensed under this section selling craft cocktail growlers shall affix a conspicuous label on all sold and securely sealed craft cocktail growlers listing the name of the licensee selling the craft cocktail growler, the brand of the liquor in the craft cocktail growler, the type of craft cocktail or name of the craft cocktail, the alcohol content

by volume of the liquor in the craft cocktail growler, and the date the craft cocktail growler was filled or refilled, and, all labeling on the craft cocktail growler shall be consistent with all federal labeling and warning requirements.

~~(j)~~ (i) *Craft cocktail growler sanitation.* — A licensee licensed under this section shall clean and sanitize all craft cocktail growlers he or she fills or refills in accordance with all state and county health requirements prior to its sealing. In addition, the licensee licensed under this section shall sanitize, in accordance with all state and county health requirements, all taps, tap lines, pipe lines, barrel tubes, and any other related equipment used to fill or refill craft cocktail growlers. Failure to comply with this subsection may result in penalties under this article: *Provided*, That, if the reuse or refilling of a craft cocktail growler would violate federal law such craft cocktail growler must only be used one-time, for one filling, and be discarded after the one-time use.

~~(k)~~ (j) *Pre-mixing of craft cocktail.* - A licensee licensed under this section may pre-mix the nonalcoholic beverages or mixers in the advance of a craft cocktail growler purchase and sealing, and add the liquor, as set forth in this section, upon a member or guest's purchase of a craft cocktail growler. A licensee licensed under this section must dispose of any expired premixed nonalcoholic beverages or mixers pursuant to Bureau for Public Health requirements when such premixed nonalcoholic beverages or mixers are no longer fit for human consumption. A licensee authorized under §60-6-8(7) may use a premixed beverage meeting the requirements therein and is also subject to the requirements of this section for a craft cocktail growler.

~~(l)~~ (k) *Limitations on licensees.* — A licensee licensed under this section shall not sell craft cocktail growlers to other licensees, but only to its members and guests. A licensee licensed under this section must provide food or a meal along with one sealed craft cocktail growler to a patron who is in-person or in-vehicle while picking up food or a meal, or in-person to a patron having dined on food or a meal and has ordered and a sealed craft cocktail growler ~~order-to-go~~, subject to verification that the purchasing person is 21 years of age or older, and not visibly or noticeably intoxicated, and as otherwise specified in this article. A licensee licensed under this section may

only sell one sealed craft cocktail growler to a patron who has not been consuming alcoholic liquors or nonintoxicating beer on its licensed premises or one craft cocktail growler per food or meal in the order delivered per §60-7-8f of this code. A licensee licensed under this section shall be subject to the applicable penalties under this article for violations of this article.

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

ARTICLE 8. SALE OF WINES.

§60-8-32a. Where wine may be sold and consumed for on-premises consumption.

(a) With prior approval of the commissioner, a Class A wine licensee may sell, serve, and furnish wine for on premises consumption in a legally demarcated area which may include a temporary private wine outdoor dining area or a temporary private wine outdoor street dining area. A temporary private wine outdoor street area shall be approved by the municipal government or county commission in which the licensee operates. The commissioner shall develop and make available an application form to facilitate the purposes of this subsection.

(b) The Class A wine licensee shall submit to a municipality or county commission for the approval of the private wine outdoor dining area or private wine outdoor street dining area and submit to the municipality or county commission a revised floorplan requesting to sell wine, subject to the commissioner's requirements, in an approved and bounded outdoor area. For private wine outdoor street dining or private wine outdoor dining the approved and bounded outdoor area need not be adjacent to the licensee's licensed premises, but in close proximity and under the licensee's control and with right of ingress and egress. For purposes of this section, "close proximity," means an available area within 300 feet of the licensee's licensed premises.

(c) This private wine outdoor dining or private wine outdoor street dining may be operated in conjunction with a private outdoor dining or private outdoor street dining area set forth in §60-7-8d of this code, and nonintoxicating beer or nonintoxicating craft beer outdoor dining or outdoor

18 street dining set forth in §11-16-9 of this code.

19 (d) For purposes of this section, "private wine outdoor dining and private wine outdoor
20 street dining" include dining areas that are:

21 (1) Outside and not served by an HVAC system for air handling services and use outside
22 air;

23 (2) Open to the air; and

24 (3) Not enclosed by fixed or temporary walls; however, the commissioner may seasonally
25 approve a partial enclosure with up to three temporary or fixed walls.

26 Any areas where seating is incorporated inside a permanent building with ambient air
27 through HVAC is not considered outdoor dining pursuant to this subsection.

28 (e) Class A licensees licensed for on-premises sales shall provide food, which may be pre-
29 packaged food not requiring kitchen preparation, or a meal along with sealed wine in the original
30 container or a sealed wine growler sales and service as set forth in this section and in §60-8-3 of
31 this code, to a patron who is (i) in-person or in-vehicle while picking up food and sealed wine in the
32 original containers or sealed wine growlers ordered to go, or (ii) in-person to a patron having dined
33 on food or a meal and has ordered sealed wine in the original containers of sealed wine growlers
34 subject to verification that the purchasing person is 21 years of age or older, and not visibly, or
35 noticeably intoxicated, and as otherwise specified in this article.

36 (f) West Virginia farm wineries possessing a Class A license may serve and sell wine by
37 the glass or by the bottle in accordance with §60-4-3b and §60-8-32a of this code.

NOTE: The purpose of this bill is to limit the sale and service of alcoholic liquor, nonintoxicating beer or nonintoxicating craft beer, and where wine may be sold and served; on sealed craft cocktail or wine growlers sold to persons who have dined in an establishment, or a patron who is in vehicle while picking up food or a meal and ordered a sealed craft cocktail or wine growler.

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