

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE
REGULAR SESSION, 2021
FIFTY-NINTH DAY

Charleston, West Virginia, Friday, April 9, 2021

The Senate met at 11:22 a.m.

(Senator Blair, Mr. President, in the Chair.)

Prayer was offered by the Honorable Amy N. Grady, a senator from the fourth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Robert D. Beach, a senator from the thirteenth district.

Pending the reading of the Journal of Thursday, April 8, 2021,

At the request of Senator Stover, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

The Senate then proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect July 1, 2021, of

Eng. Com. Sub. for Com. Sub. for Senate Bill 335, Relating to WV Invests Grant Program for students at accredited community and technical college.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 419, Redefining "firearm" to match federal code.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 7. DANGEROUS WEAPONS.**§61-7-2. Definitions.**

As used in this article, unless the context otherwise requires:

(1) “Antique firearm” means:

(A) Any firearm, including, but not limited to, a firearm with a match lock, flintlock, percussion cap, or similar type of ignition system which was manufactured on or before 1898;

(B) Any replica of any firearm described in paragraph (A) of this subdivision if such replica

is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

(C) Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol, which is designed to use black powder, or black powder substitute, and which cannot use fixed ammunition. For purposes of this subdivision, the term “antique firearm” shall not include any weapon which includes a firearm frame or receiver, any firearm which is converted into a muzzle-loading weapon, or any muzzle-loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

(2) “Blackjack” means a short bludgeon consisting, at the striking end, of an encased piece of lead or some other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact when a person or object is struck. The term “blackjack” includes, but is not limited to, a billy, billy club, sand club, sandbag, or slapjack.

(3) “Concealed” means hidden from ordinary observation so as to prevent disclosure or recognition. A deadly weapon is concealed when it is carried on or about the person in such a manner that another person in the ordinary course of events would not be placed on notice that the deadly weapon was being carried. For purposes of concealed handgun licensees, a licensee is considered to be carrying on or about his or her person while in or on a motor vehicle if the firearm is located in a storage area in or on the motor vehicle.

(4) “Controlled substance” has the same meaning as is ascribed to that term in §60A-1-101(e) of this code.

(5) “Deadly weapon” means an instrument which is designed to be used to produce serious bodily injury or death or is readily adaptable to such use. The term “deadly weapon” includes, but is not limited to, the instruments defined in subdivisions (1) through (8), inclusive, of this section or other deadly weapons of like kind or character which may be easily concealed on or about the person. For the purposes of §18A-5-1a of this code and §61-7-11a of this code, in addition to the definition of “knife” set forth in subdivision (9) of this subsection, the term “deadly weapon” also includes any instrument included within the definition of “knife” with a blade of three and one-half inches or less in length. Additionally, for the purposes of §18A-5-1a of this code and §61-7-11a of this code, the term “deadly weapon” includes explosive, chemical, biological, and radiological materials. Notwithstanding any other provision of this section, the term “deadly weapon” does not include any item or material owned by the school or county board, intended for curricular use, and used by the student at the time of the alleged offense solely for curricular purposes. The term

“deadly weapon” does not include pepper spray as defined in ~~subdivision (9)~~ of subdivision (12) of this subsection when used by any person over the age of 16 solely for self-defense purposes.

(6) “Drug” has the same meaning as is ascribed to that term in §60A-1-101(m) of this code.

(7) “Firearm” means any weapon which will expel a projectile by action of an explosion: Provided, That it does not mean an antique firearm as defined in subdivision (1) of this subsection; except for the purposes of §48-27-502 of this code.

(8) “Gravity knife” means any knife that has a blade released from the handle by the force of gravity or the application of centrifugal force and when ~~so~~ released is locked in place by means of a button, spring, lever, or other locking or catching device.

(9) “Knife” means an instrument, intended to be used or readily adaptable to be used as a weapon, consisting of a sharp-edged or sharp-pointed blade, usually made of steel, attached to a handle which is capable of inflicting cutting, stabbing, or tearing wounds. The term “knife” includes, but is not limited to, any dagger, dirk, poniard, or stiletto, with a blade over three and one-half inches in length, any switchblade knife or gravity knife, and any other instrument capable of inflicting cutting, stabbing, or tearing wounds. A pocket knife with a blade three and one-half inches or less in length, a hunting or fishing knife carried for hunting, fishing, sports, or other recreational uses, or a knife designed for use as a tool or household implement is not included within the term “knife” as defined in this subdivision unless the knife is knowingly used or intended to be used to produce serious bodily injury or death.

(10) “Metallic or false knuckles” means a set of finger rings attached to a transverse piece to be worn over the front of the hand for use as a weapon and constructed in such a manner that, when striking another person with the fist or closed hand, considerable physical damage may be inflicted upon the person who was struck. The terms “metallic or false knuckles” includes any such instrument without reference to the metal or other substance or substances from which the metallic or false knuckles are made.

(11) “Nunchaku” means a flailing instrument consisting of two or more rigid parts, connected by a chain, cable, rope, or other nonrigid, flexible, or springy material, constructed in ~~such~~ a manner ~~as to allow~~ that allows the rigid parts to swing freely so that one rigid part may be used as a handle and the other rigid part may be used as the striking end.

(12) “Pepper spray” means a temporarily disabling aerosol that is composed partly of capsicum oleoresin and causes irritation, blinding of the eyes, and inflammation of the nose, throat, and skin that is intended for self-defense use.

(13) “Pistol” means a short firearm having a chamber which is integral with the barrel, designed to be aimed and fired by the use of a single hand.

(14) “Revolver” means a short firearm having a cylinder of several chambers that are brought successively into line with the barrel to be discharged, designed to be aimed and fired by the use of a single hand.

(15) “Switchblade knife” means any knife having a spring-operated blade which opens automatically upon pressure being applied to a button, catch, or other releasing device in its handle.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 419, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 419) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 458, Relating to possession of firearms by individuals during state of emergency.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

By striking everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.

§15-5-19a. Possession of firearms during a declared state of emergency

~~(a) No person acting on behalf or under the authority of the state or a political subdivision of the state may do any of the following during any federal or state declared state of emergency~~

(a) During a federal or state declared state of emergency, no state agency, county, or municipality, or any elected or appointed official or employee thereof, may:

(1) Prohibit or restrict the otherwise lawful possession, use, carrying, transfer, transportation, storage, sale, or display, or other lawful use of a firearm or ammunition, any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or personal weapons other than firearms;

(2) Seize, confiscate, or authorize the seizure or confiscation of any otherwise lawfully possessed firearm or ammunition, any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or otherwise lawful personal weapons other than firearms unless:

(A) The person acting on behalf of or under the authority of the state, ~~or political subdivision~~ a county, or municipality is:

(i) Defending himself or herself or another from an assault; or

(ii) Arresting a person in actual possession of a firearm or ammunition for a violation of law;
or

(B) The firearm or ammunition is being seized or confiscated as evidence of a crime;

(3) Require registration of any firearm or ammunition, any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or otherwise lawful personal weapons other than firearms;

(4) Suspend or revoke a license to carry a concealed deadly weapon or provisional license to carry a concealed deadly weapon issued pursuant to §61-7-1 et seq. of this code except as expressly authorized in that article;

(5) Willfully refuse to accept an application for a license to carry a concealed deadly weapon or provisional license to carry a concealed deadly weapon, provided the application has been properly completed in accordance with §61-7-1 et seq. of this code;

(6) Close or limit the operating hours of any entity engaged in the lawful selling or servicing of any firearm, including any component or accessory, ammunition, ammunition reloading equipment and supplies, or personal weapons other than firearms, unless the closing or limitation of hours applies generally within the jurisdiction of commerce;

(7) Close or limit the operating hours of any indoor or outdoor shooting range; or

(8) Place restrictions or quantity limitations on any entity regarding the lawful sale or servicing of any firearm or ammunition, any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or personal weapons other than firearms.

(b) The prohibitions of ~~subsection (a)(1)~~ subdivision (1) of subsection (a) of this section do not prohibit the state or an authorized state or local authority from ordering and enforcing an evacuation or general closure of businesses in the affected area during a declared state of emergency.

(c) Any individual ~~aggrieved~~ adversely affected by a violation of this section may seek relief in an action at law or in equity for redress against ~~any person~~ state agency, county, municipality, or any elected or appointed official or employee of this state, a county, or municipality ~~who~~ that subjects ~~such~~ the individual, or causes ~~such~~ the individual to be subjected, to an action prohibited by this section.

(d) In addition to any other remedy at law or in equity, an individual ~~aggrieved~~ adversely affected by the seizure or confiscation of ~~a firearm or ammunition~~ any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or otherwise lawful personal weapons other than firearms in violation of this section may bring an action for the return of ~~such firearm or ammunition~~ the seized or confiscated property in the circuit court of the county in which that individual resides or in which ~~such firearm or ammunition~~ the seized or confiscated property is located.

~~(e) In any action or proceeding to enforce this section, the court shall award a prevailing plaintiff costs and reasonable attorney fees~~ A prevailing plaintiff in an action under this section is entitled to recover the following:

(1) Actual damages, including consequential damages;

(2) Court costs and fees; and

(3) Reasonable attorney's fees.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 458, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 458) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Senate Bill 486, Relating to powers and duties of Chief Technology Officer.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Senate Bill 488, Relating to distributing hotel occupancy tax to convention and visitor's bureaus.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Senate Bill 521, Extending licensure renewal term of certain private investigators, security guards, and associated firms.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Senate Bill 529, Correcting improper citation relating to DMV registration.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 534, Permitting Economic Development Authority to make working capital loans from revolving loan fund capitalized with federal grant funds.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

§12-6C-11. Legislative findings; loans for industrial development; availability of funds and interest rates.

(a) The Legislature finds and declares that the citizens of the state benefit from the creation of jobs and businesses within the state; that business and industrial development loan programs provide for economic growth and stimulation within the state; that loans from pools established in the Consolidated Fund will assist in providing the needed capital to assist business and industrial development; and that time constraints relating to business and industrial development projects prohibit duplicative review by both the Board and West Virginia Economic Development Authority Board.

(b) ~~The Subject to a liquidity determination, the West Virginia Board of Treasury Investments shall make a revolving loan available, subject to a liquidity determination, in the form of a revolving loan, up to \$175 million from the Consolidated Fund to loan the West Virginia Economic Development Authority in an amount of up to \$200 million. The revolving loan shall be used for business or industrial development projects authorized by §31-15-7 of this code and to consolidate existing loans authorized to be made to the West Virginia Economic Development Authority pursuant to this section and pursuant to §31-15-2 §31-15-20 of this code which authorizes a \$175 \$150 million revolving loan and §31-18B-1 et seq. of this code which authorizes a \$50 million investment pool: *Provided*, That the West Virginia Economic Development Authority may not loan more than \$15 million for any one business or industrial development project. The revolving loan authorized by this subsection shall be secured by one note at a variable interest rate equal to the 12-month average of the board's yield on its West Virginia Money Market pool. The rate shall be set on July 1 and adjusted annually on the same date. 50% of the West Virginia Economic Development Authority's weighted average interest rate for outstanding loans in the Business and Industrial Development Loan Program authorized by §31-15-7 of this code. The rate may not be lower than 1.50% and must be reset on July 1 of each year. The maximum annual adjustment may not exceed one percent.~~ Monthly payments made by the West Virginia Economic Development Authority to the board shall be calculated on a 120-month amortization. The revolving loan is secured by a security interest that pledges and assigns the cash proceeds of collateral from all loans under this revolving loan pool. The West Virginia Economic Development Authority may also pledge as collateral certain revenue streams from other revolving loan pools which source of funds does not originate from federal sources or from the board.

(c) The outstanding principal balance of the revolving loan from the board to the West Virginia Economic Development Authority may at no time exceed one hundred three percent of the aggregate outstanding principal balance of the business and industrial loans from the West Virginia Economic Development Authority to economic development projects funded from this

revolving loan pool. The independent audit of the West Virginia Economic Development Authority financial records shall annually certify that one hundred three percent requirement.

(d) The interest rates and maturity dates on the loans made by the West Virginia Economic Development Authority for business and industrial development projects authorized by §31-15-7 of this code shall be at competitive rates and maturities as determined by the West Virginia Economic Development Authority Board.

(e) Any and all outstanding loans made by the West Virginia Board of Treasury Investments, or any predecessor entity, to the West Virginia Economic Development Authority are refundable by proceeds of the revolving loan contained in this section and the board shall make no loans to the West Virginia Economic Development Authority pursuant to §31-15-20 of this code or §31-18B-1 *et seq.* of this code.

(f) The directors of the West Virginia Board of Treasury Investments shall bear no fiduciary responsibility with regard to any of the loans contemplated in this section.

(g) *Inspection of records.* – Within 30 days of receiving a written request from the board, the authority shall provide the board with the opportunity to inspect and copy any records in the custody of the authority related to any loan issued by the board to the authority or any loan from the authority to a third party funded by a loan issued by the board. Records to be made available pursuant to this subsection include, but are not limited to, accounting records, loan applications, loan agreements, board minutes, audit reports, and transaction records. Records of the authority held from time to time by the board pursuant to this subsection that are exempt from disclosure pursuant to the provisions of §31-15-22 of this code or §29B-1-1 *et seq.* of this code shall remain so while held by the board.

§31-15-5. West Virginia economic development authority; composition; appointment; terms; delegation of authority by chairman; voting; compensation and expenses.

(a) The West Virginia economic development authority is continued as a body corporate and politic, constituting a public corporation and government instrumentality.

(b) The authority shall be composed of a board of members consisting of a chairman, who shall be the Governor, or his or her designated representative, the State Treasurer, or his or her designated representative, the Tax Commissioner and seven members who shall be appointed by the Governor, by and with the advice and consent of the Senate, and who shall be broadly representative of the geographic regions of the state. One member of the House of Delegates to be appointed by the Speaker and one member of the Senate to be appointed by the President shall serve on the board in an advisory capacity as ex officio, nonvoting members. The board shall direct the exercise of all the powers given to the authority in this article. The Governor shall also be the chief executive officer of the authority, and shall designate the treasurer and the secretary of the board.

(c) As appointments expire, each subsequent appointment shall be for a full four-year term. Any member whose term has expired shall serve until his or her successor has been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any member is eligible for reappointment.

(d) The Governor may, by written notice filed with the secretary of the authority, from time to time, delegate to any subordinate the power to represent him or her at any meeting of the

authority. In that case, the subordinate has the same power and privileges as the Governor and may vote on any question.

(e) Members of the authority are not entitled to compensation for services performed as members, but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties.

(f) A majority of the members constitutes a quorum for the purpose of conducting business. Except in the case of a loan or insurance application or unless the bylaws require a larger number, action may be taken by majority vote of the members present. Approval or rejection of a loan or insurance application shall be made by majority vote of the full membership of the board.

(g) The board shall manage the property and business of the authority and may prescribe, amend, adopt and repeal bylaws and rules and regulations governing the manner in which the business of the authority is conducted.

(h) The board shall, without regard to the provisions of civil service laws applicable to officers and employees of the State of West Virginia, appoint any necessary managers, assistant managers, officers, employees, attorneys and agents for the transaction of its business, fix their compensation, define their duties and provide a system of organization to fix responsibility and promote efficiency. Any appointee of the board may be removed at the discretion of the board. The authority may reimburse any state spending unit for any special expense actually incurred in providing any service or the use of any facility to the authority.

(i) The board may delegate to the Executive Director the authority to make and execute all contracts and other agreements or instruments necessary ~~for the exercise of its powers or to carry out its corporate purpose~~ to carry out the duties and powers of the authority, as provided in this article: *Provided, That nothing in this article authorizes the authority to enter into contracts or agreements with financial institutions, as that term is defined in §31A-1-2 of this code, for banking goods or services without approval of the State Treasurer, in accordance with §12-1-1 et seq. of this code.*

(j) In cases of any vacancy in the office of a voting member, the vacancy shall be filled by the Governor. Any member appointed to fill a vacancy in the board occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of the term.

(k) The Governor may remove a member in the case of incompetence, neglect of duty, gross immorality or malfeasance in office, and may declare the member's office vacant and appoint a person for the vacancy as provided in other cases of vacancy.

(l) The secretary of the board shall keep a record of the proceedings of the board and perform any other duties determined appropriate by the board. The treasurer shall be custodian of all funds of the authority and shall be bonded in the amount designated by other members of the board.

§31-15-6. General powers of authority.

The authority, as a public corporation and governmental instrumentality exercising public powers of the state, shall have and may exercise all powers necessary or appropriate to carry out the purposes of this article, including the power:

(a) To cooperate with industrial development agencies in efforts to promote the expansion of industrial, commercial, manufacturing and tourist activity in this state.

(b) To determine, upon the proper application of an industrial development agency or an enterprise, whether the declared public purposes of this article have been or will be accomplished by the establishment by such agency or enterprise of a project in this state.

(c) To conduct examinations and investigations and to hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter relevant to this article and necessary for information on the establishment of any project.

(d) To issue subpoenas requiring the attendance of witnesses and the production of books and papers relevant to any hearing before such authority or one or more members appointed by it to conduct any hearing.

(e) To apply to the circuit court having venue of such offense to have punished for contempt any witness who refuses to obey a subpoena, to be sworn or affirmed or to testify or who commits any contempt after being summoned to appear.

(f) To authorize any member of the authority to conduct hearings, administer oaths, take affidavits and issue subpoenas.

(g) To financially assist projects by insuring obligations in the manner provided in this article through the use of the insurance fund.

(h) To finance any projects by making loans to industrial development agencies or enterprises upon such terms as the authority shall deem appropriate: *Provided*, That nothing contained in this subsection (h) or under any other provision in this article shall be construed as permitting the authority to make loans for working capital: *Provided, however*, That nothing contained in this article shall be construed as prohibiting the authority from insuring loans for working capital made to industrial development agencies or to enterprises by financial institutions: *Provided further*, That nothing contained in this subsection or any other provision of this article shall be construed as permitting the authority to refinance existing debt except when such refinancing will result in the expansion of the enterprise whose debt is to be refinanced or in the creation of new jobs: *And provided further*, That nothing contained in this subsection or any other provision of this article shall be construed as prohibiting the authority from making working capital loans from a revolving loan fund capitalized with federal grant funds including, but not limited to, federal grant funds received from the United States Economic Development Administration.

(i) To issue revenue bonds or notes to fulfill the purposes of this article, and to secure the payment of such bonds or notes, all as hereinafter provided.

(j) To issue and deliver revenue bonds or notes in exchange for a project.

(k) To borrow money for its purposes and issue bonds or notes for the money and provide for the rights of the holders of the bonds or notes or other negotiable instruments, to secure the bonds or notes by a deed of trust on, or an assignment or pledge of, any or all of its property and property of the project, including any part of the security for loans, and the authority may issue and sell its bonds and notes, by public or private sale, in such principal amounts as it shall deem necessary to provide funds for any purposes under this article, including the making of loans for the purposes set forth in this article.

(l) To maintain such sinking funds and reserves as the board shall determine appropriate for the purposes of meeting future monetary obligations and needs of the authority.

(m) To sue and be sued, implead and be impleaded, and complain and defend in any court.

(n) To adopt, use and alter at will a corporate seal.

(o) To make, amend, repeal and adopt both bylaws and rules and regulations for the management and regulation of its affairs.

(p) To appoint officers, agents and employees and to contract for and engage the services of consultants.

(q) To make contracts ~~of every kind and nature and~~ to execute all instruments necessary or convenient for carrying on its business to carry out the powers and duties of the authority, as provided in this article: *Provided*, That the provisions of §5A-3-3 of this code do not apply to contracts made pursuant to this subdivision: *Provided, however, That nothing in this article authorizes the authority to enter into contracts or agreements with financial institutions, as that term is defined in §31A-1-2 of this code, for banking goods and services without approval of the State Treasurer, in accordance with §12-1-1 et seq. of this code.*

(r) To accept grants and loans from and enter into contracts and other transactions with any federal agency.

(s) To take title by conveyance or foreclosure to any project where acquisition is necessary to protect any loan previously made by the authority and to sell, by public or private sale, transfer, lease or convey such project to any enterprise.

(t) To participate in any reorganization proceeding pending pursuant to the United States Code (being the act of Congress establishing a uniform system of bankruptcy throughout the United States, as amended) or in any receivership proceeding in a state or federal court for the reorganization or liquidation of an enterprise. The authority may file its claim against any such enterprise in any of the foregoing proceedings, vote upon any questions pending therein which requires the approval of the creditors participating in any reorganization proceeding or receivership, exchange any evidence of such indebtedness for any property, security or evidence of indebtedness offered as a part of the reorganization of such enterprise or of any other entity formed to acquire the assets thereof and may compromise or reduce the amount of any indebtedness owing to it as a part of any such reorganization.

(u) To acquire, construct, maintain, improve, repair, replace and operate projects within this state, as well as streets, roads, alleys, sidewalks, crosswalks and other means of ingress and egress to and from projects located within this state.

(v) To acquire, construct, maintain, improve, repair and replace and operate pipelines, electric transmission lines, waterlines, sewer lines, electric power substations, waterworks systems, sewage treatment and disposal facilities and any combinations thereof for the use and benefit of any enterprise located within this state.

(w) To acquire watersheds, water and riparian rights, rights-of-way, easements, licenses and any and all other property, property rights and appurtenances for the use and benefit of any enterprise located within this state.

(x) To acquire, by purchase, lease, donation or eminent domain, any real or personal property, or any right or interest therein, as may be necessary or convenient to carry out the purposes of the authority. Title to all property, property rights and interests acquired by the authority shall be taken in the name of the authority.

(y) To issue renewal notes, or security interests, to issue bonds to pay notes or security interests and, whenever it deems refunding expedient, to refund any bonds or notes by the issuance of new bonds or notes, whether the bonds or notes to be refunded have or have not matured and whether or not the authority originally issued the bonds or notes to be refunded.

(z) To apply the proceeds from the sale of renewal notes, security interests or refunding bonds or notes to the purchase, redemption or payment of the notes, security interests or bonds or notes to be refunded.

(aa) To accept gifts or grants of property, funds, security interests, money, materials, labor, supplies or services from the United States of America or from any governmental unit or any person, firm or corporation, and to carry out the terms or provisions of, or make agreements with respect to, or pledge, any gifts or grants, and to do any and all things necessary, useful, desirable or convenient in connection with the procuring, acceptance or disposition of gifts or grants.

(bb) To the extent permitted under its contracts with the holders of bonds, security interests or notes of the authority, to consent to any modification of the rate of interest, time of payment of any installment of principal or interest, security or any other term of any bond, security interests, note or contract or agreement of any kind to which the authority is a party.

(cc) To sell loans, security interests or other obligations in the loan portfolio of the authority. Such security interests shall be evidenced by instruments issued by the authority. Proceeds from the sale of loans, security interests, or other obligations may be used in the same manner and for the same purposes as bond and note revenues.

(dd) To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as the authority deems desirable.

(ee) To sell, license, lease, mortgage, assign, pledge or donate its property, both real and personal, or any right or interest therein to another or authorize the possession, occupancy or use of such property or any right or interest therein by another, in such manner and upon such terms as it deems appropriate.

(ff) To participate with the state and federal agencies in efforts to promote the expansion of commercial and industrial development in this state.

(gg) To finance, organize, conduct, sponsor, participate and assist in the conduct of special institutes, conferences, demonstrations and studies relating to the stimulation and formation of business, industry and trade endeavors.

(hh) To conduct, finance and participate in technological, business, financial and other studies related to business and economic development.

(ii) To conduct, sponsor, finance, participate and assist in the preparation of business plans, financing plans and other proposals of new or established businesses suitable for support by the authority.

(jj) To prepare, publish and distribute, with or without charge as the authority may determine, such technical studies, reports, bulletins and other materials as it deems appropriate, subject only to the maintenance and respect for confidentiality of client proprietary information.

(kk) To exercise such other and additional powers as may be necessary or appropriate for the exercise of the powers herein conferred.

(ll) To exercise all of the powers which a corporation may lawfully exercise under the laws of this state.

(mm) To contract for the provision of legal services by private counsel, and notwithstanding the provisions of ~~article three, chapter five §5-3-1 et seq. of this code~~, such counsel may, but is not limited to, represent the authority in court, negotiate contracts and other agreements on behalf of the authority, render advice to the authority on any matter relating thereto, prepare contracts and other agreements, and provide such other legal services as may be requested by the authority.

(nn) To develop, maintain, operate and apply for the establishment of foreign trade zones pursuant to and in accordance with all applicable provisions of federal law.

(oo) To exercise the powers and responsibilities previously vested in the state building commission by ~~section eleven a, article six, chapter five §5-6-11a of this code~~, including, but not limited to, the authority to refund bonds issued in accordance with that section.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 534—A Bill to amend and reenact §12-6C-11 of the Code of West Virginia, 1931, as amended; and to amend and reenact §31-15-5 and §31-15-6 of said code, all relating generally to Economic Development Authority; increasing the revolving loan capacity from the Board of Treasury Investments to the Economic Development Authority to an amount not to exceed \$200 million; establishing the interest rate by which the revolving loan will be secured; providing that the State Treasurer shall be a member of the Economic Development Authority Board; authorizing the Economic Development Authority to make working capital loans from a revolving loan fund capitalized with federal grant funds including those federal grant funds received from the United States Economic Development Administration; and clarifying that the authority is not authorized to enter into contracts or agreements with financial institutions for banking goods or services without the approval of the State Treasurer.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 534, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 534) passed with its House of Delegates amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body to the title of the bill, passage as amended, to take effect July 1, 2021, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 613, Adding classification and base salaries of certain civilian employees of State Police Forensic Laboratory.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

Eng. Com. Sub. for Senate Bill 613—A Bill to amend and reenact §15-2-5 and §15-2-7 of the Code of West Virginia, 1931, as amended, all relating to adding the classification and base salaries of certain civilian employees of the West Virginia State Police Forensic Laboratory as Evidence Custodians I-IV, Forensic Technicians I-III, Forensic Scientists I-VI, and Forensic Scientist Supervisors I-IV; providing for promotion based upon the Forensic Lab Career Progression System; directing that a written manual be provided to individuals within the forensic laboratory governing certain established systems and that specific procedures must be identified for the evaluation of promotion or reclassification of those individuals; and providing for the inclusion of these civilian employees in longevity salary increase provisions.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Committee Substitute for Senate Bill 613, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 613) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect July 1, 2021.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 613) takes effect July 1, 2021.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to the House of Delegates amendments to, and the passage as amended, of

Eng. Com. Sub. for Senate Bill 626, Updating regulation for purchase of automobile catalytic converters.

A message from the Clerk of the House of Delegates announced the amendment by that body to the title of the bill, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 671, Appointing Director of Office of Emergency Medical Services.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

Eng. Com. Sub. for Senate Bill 671—A Bill to amend and reenact §16-4C-4 of the Code of West Virginia, 1931, as amended, relating to providing for the appointment of a Director of the Office of Emergency Medical Services; providing qualifications; and requiring that the Office of Emergency Medical Services director be appointed by the Secretary of the Department of Health and Human Resources.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Committee Substitute for Senate Bill 671, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 671) passed with its House of Delegates amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 684, Adding Curator of Division of Arts, Culture, and History as ex officio voting member to Library Commission.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 1. PUBLIC LIBRARIES.

§10-1-12. State Library Commission.

There shall be a state Library Commission, known as the West Virginia Library Commission, which shall consist of the Curator of the West Virginia Department of Arts, Culture and History as an ex officio voting member and five nine members who shall be appointed by the Governor, by and with the advice and consent of the Senate, each for a term of four years. ~~Thereafter, on July 1, 1995, four additional members shall be appointed: *Provided*, That for the four new members added to the commission in the year 1995, one shall serve an initial term of four years and three shall serve an initial term of two years.~~ No more than three appointed members may reside in the same congressional district. At least four appointed members of the commission shall be women and at least four appointed members shall be men. No member of the commission shall receive compensation for services rendered, nor be engaged or interested in the publishing business.

The members of the commission in office on the date this code takes effect shall, unless sooner removed, continue to serve until their respective terms expire and their successors have been appointed and have qualified. On or before the expiration of the terms for which ~~said~~ the members are appointed, the Governor shall appoint their successors.

On motion of Senator Takubo, the following amendment to the House of Delegates amendment to the bill (Eng. Com. Sub. for S. B. 684) was reported by the Clerk and adopted:

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 684—A Bill to amend and reenact §10-1-12 of the Code of West Virginia, 1931, as amended, relating to the State Library Commission; adding the Curator of the West Virginia Department of Arts, Culture and History as an ex officio voting member; and updating other language.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment, as amended.

Engrossed Committee Substitute for Senate Bill 684, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 684) passed with its Senate amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 695, Providing procedures for decreasing or increasing corporate limits by annexation.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 6. ANNEXATION.

§8-6-4a. Annexation without election for municipalities in counties that have an adopted countywide zoning ordinance which includes urban growth boundaries.

(a) This section applies to municipalities in counties that have adopted a countywide zoning ordinance with designated urban growth boundaries and, prior to January 1, 2009, have adopted local impact fees pursuant to the provisions of §7-20-1 *et seq.* of this code that want to annex additional property without an election.

(b) For purposes of this section only:

(1) "Contiguous" means property that is next to, abutting, and having a boundary that is coterminous with the municipality's designated urban growth boundary. The length of a street, highway, road, or other traffic or utility easement, streams, rivers, or other natural topography are not to be used to determine if a property is contiguous: *Provided*, That the width of a street, highway, road, or other traffic or utility easement, streams, rivers, or other natural topography may be used to determine contiguous boundaries.

(2) "Urban growth boundary" means a site-specific line, delineated on a zoning map or a written description in a zoning ordinance identifying an area around and outside the corporate

limits of a municipality within which there is a sufficient supply of developable land within the boundary for at least a prospective 20-year period of municipal growth based on demographic forecasts and the time reasonably required to effectively provide municipal services to the identified area. The urban growth boundary may be called by any name chosen by the county commission, but the word "boundary" shall be used in the name of the boundary. The boundary shall be established by the county commission in agreement with each individual municipality regarding that municipality's boundary. If the county commission and municipality cannot agree upon the location or size of the boundary, either party may file for declaratory judgment relief in the circuit court which shall submit the dispute to mediation or arbitration prior to final resolution by the circuit court. Once a county has adopted an urban growth boundary by its designation on an adopted county zoning map, the gross area inside the boundary may not be reduced without written consent of the municipality. The county commission shall review each urban growth boundary at a period not to exceed 10 years or upon request of the individual municipality.

(c) Procedure for a municipality to annex property within an urban growth boundary. —

(1) If the proposed property to be annexed by a municipality is entirely within the municipality's designated urban growth boundary, then the municipality may annex without an election the proposed property pursuant to the provisions of §8-6-4 of this code. Agreement with the county commission is not required.

(2) If the proposed property to be annexed by minor boundary adjustment by a municipality is entirely within the municipality's designated urban growth boundary, then the municipality may annex without an election the proposed property pursuant to the provisions of §8-6-4 of this code if the provisions of §8-6-5 of this code are followed, except that agreement with the county commission is not required.

(d) Procedure for a municipality to annex property within urban growth boundaries of two or more municipalities. —

If the proposed property to be annexed by a municipality is partially or wholly within another municipality's urban growth boundary, then the municipality may annex without an election the proposed property pursuant to the provisions of §8-6-4 of this code if the two municipalities have executed an intergovernmental agreement regarding the annexation of the subject property. Agreement with the county commission is not required.

(e) Procedure for a municipality to annex contiguous property outside an urban growth boundary. —

(1) If the proposed property to be annexed by a municipality is outside the municipality's designated urban growth boundary, then the municipality may annex without an election the proposed property pursuant to the provisions of §8-6-4 of this code, if:

(A) The proposed property to be annexed is contiguous to the municipality, as defined in this section; and

(B) The municipality has the county commission's agreement.

(2) Prior to the agreement of the county commission to the annexation of the proposed property, the county commission shall:

(A) Hold a public hearing;

(B) Place a notice on the subject property, which notice shall be the same as that required for property to be rezoned; and

(C) At least 15 days prior to the public hearing, publish a notice of the date, time, and place of the public hearing as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code.

(f) *Procedure for a municipality to annex noncontiguous property outside an urban growth boundary.* —

(1) If the proposed property to be annexed by a municipality is entirely outside the municipality's designated urban growth boundary and is not contiguous to the municipality, as defined in this section, then the municipality may annex without an election the proposed property pursuant to the provisions of §8-6-4 of this code if the municipality has the county commission's agreement and, prior to the agreement of the county commission to the annexation of the proposed property, the county commission shall:

(A) Hold a public hearing;

(B) Place a notice on the subject property, which notice shall be the same as that required for property to be rezoned; and

(C) At least 15 days prior to the public hearing, publish a notice of the date, time, and place of the public hearing as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code.

(2) After the public hearing and on-site notice, if the county commission finds, by a written record, that the proposed annexation is for the good of the county as a whole, then the county commission may agree to the annexation.

(g) Prior to the county commission entering an order for any annexation pursuant to this section, the annexed property shall be surveyed by a licensed professional surveyor and a metes and bounds description of the annexed property must be provided to the county commission of the county in which the property is located.

(h) After a municipality has annexed property pursuant to this section and the property has been surveyed, the county commission shall enter an order. After the order is entered, the corporate limits of the municipality include the annexed property.

§8-6-5. Annexation by minor boundary adjustment.

(a) ~~In the event~~ If a municipality desires to increase its corporate limits by making a minor boundary adjustment, the governing body of the municipality may apply to the county commission of the county wherein the municipality or the major portion of the territory thereof, including the territory to be annexed, is located for permission to effect annexation by minor boundary adjustment. The municipality shall pay the costs of all proceedings before the commission: Provided, That:

(1) A minor boundary adjustment may not exceed 105 percent of the existing total municipal boundary;

(2) A minor boundary adjustment may not exceed 120 percent of the current area of the municipality; and

(3) A minor boundary adjustment made in this manner is limited to one boundary annexation within a two-year period, regardless of subdivisions (1) and (2) of this subsection.

(b) In addition to any other annexation configuration, a municipality may incorporate by minor boundary adjustment: (i) Territory that consists of a street or highway as defined in §17C-1-35 of this code and one or more freeholders; or (ii) territory that consists of a street or highway as defined in §17C-1-35 of this code which does not include a freeholder, but which is necessary for the provision of emergency services in the territory being annexed.

(c) A county commission may develop a form application for annexation for minor boundary adjustment. An application for annexation by minor boundary adjustment shall include, but not be limited to:

(1) The number of businesses located in and persons residing in the additional territory;

(2) An affidavit of each business located in, each person residing in, and each freeholder of the additional territory stating that he, she, or it has consented to be included in the annexation, in such form as the county commission deems sufficient. ~~In the event~~ If the municipality cannot obtain an affidavit from a business, resident, or freeholder within 90 days after sending the affidavit form and a letter explaining the purpose of the affidavit via certified mail, return receipt requested, to the best available address for the business, resident, or freeholder, such business, resident, or freeholder shall be ~~deemed~~ considered to have consented to the annexation;

(3) An accurate map showing the metes and bounds of the additional territory;

(4) A statement setting forth the municipality's plan for providing the additional territory with all applicable public services such as police and fire protection, solid waste collection, public water and sewer services, and street maintenance services, including to what extent the public services are or will be provided by a private solid waste collection service or a public service district;

(5) A statement of the impact of the annexation on any private solid waste collection service or public service district currently doing business in the territory proposed for annexation in the event the municipality should choose not to utilize the current service providers;

(6) A statement of the impact of the annexation on fire protection and fire insurance rates in the territory proposed for annexation;

(7) A statement of how the proposed annexation will affect the municipality's finances and services; and

(8) A statement that the proposed annexation meets the requirements of this section.

(d) Upon receipt of a complete application for annexation by minor boundary adjustment, the county commission shall determine whether the application meets the threshold requirements for consideration as a minor boundary adjustment including whether the annexation could be

efficiently and cost effectively accomplished under §8-6-2 or §8-6-4 of this code. If the county commission determines that the annexation could be cost effectively and efficiently accomplished under §8-6-2 or §8-6-4 of this code, that the application lacks sufficient evidence that all affected parties of the additional territory consent to the annexation, or that the application otherwise fails to meet the threshold requirements for consideration as a minor boundary adjustment, it shall enter an order denying the application, which order shall include the reasons upon which it is based.

(e) If the application meets the threshold requirements, the county commission shall order publication of a notice of the proposed annexation to the corporate limits and of the date and time set by the commission for a hearing on the proposal. Publication shall be as in the case of an order calling for an election, as set forth in §8-6-2 of this code. A like notice shall be prominently posted at not less than five public places within the area proposed to be annexed.

(f) In making its final decision on an application for annexation by minor boundary adjustment, the county commission shall, at a minimum, consider the following factors:

(1) Whether the territory proposed for annexation is contiguous to the corporate limits of the municipality. For purposes of this section, "contiguous" means that at the time the application for annexation is submitted, the territory proposed for annexation either abuts directly on the municipal boundary or is separated from the municipal boundary by an unincorporated street or highway, or street or highway right-of-way, a creek or river, or the right-of-way of a railroad or other public service corporation, or lands owned by the state or the federal government;

(2) Whether the proposed annexation is limited solely to a Division of Highways right-of-way or whether the Division of Highways holds title to the property in fee;

(3) Whether affected parties of the territory to be annexed oppose or support the proposed annexation. For purposes of this section, "affected parties" means freeholders, firms, corporations, and qualified voters in the territory proposed for annexation and in the municipality, and a freeholder whose property abuts a street or highway, as defined in §17C-1-35 of this code, when: (i) The street or highway is being annexed to provide emergency services; or (ii) the annexation includes one or more freeholders at the end of the street or highway proposed for annexation;

(4) Whether the proposed annexation consists of a street or highway as defined in §17C-1-35 of this code and one or more freeholders;

(5) Whether the proposed annexation consists of a street or highway as defined in §17C-1-35 of this code which does not include a freeholder, but which is necessary for the provision of emergency services in the territory being annexed;

(6) Whether another municipality has made application to annex the same or substantially the same territory; and

(7) Whether the proposed annexation is in the best interest of the county as a whole.

(g) If the county commission denies the application for annexation by minor boundary adjustment, the commission may allow the municipality to modify the proposed annexation to meet the commissions objections. The commission must order another public hearing if significant modifications are proposed.

(h) The final order of the commission shall include the reasons for the grant or denial of the application.

(i) The municipality applying for annexation or any affected party may appeal the commission's final order to the circuit court of the county in which the municipality or the major portion thereof, including the area proposed to be annexed, is located. The county commission may participate in any appeal taken from its order in the same manner and to the same extent as a party to the appeal. The order may be reviewed by the circuit court as an order of a county commission ordering an election may be reviewed under §8-5-16 of this code.

(j) If the final order of the county commission is a denial of the application for annexation, the municipality may appeal as set forth in this section, but the municipality may not present the commission with another application for annexation relating to the same proposed change or any part thereof for a period of two years after issuance of the final order of the commission, unless such application is directed by the circuit court as the result of an appeal.

ARTICLE 7. DECREASE OF CORPORATE LIMITS.

PART II. DECREASE OF CORPORATE LIMITS BY ELECTION.

§8-7-2. Procedure to decrease corporate limits.

A petition to decrease the corporate limits of a municipality may be filed with the governing body thereof by five percent or more of the freeholders in the territory proposed for elimination. ~~Five percent or more of the freeholders of a municipality desiring to decrease the corporate limits thereof may file their petition in writing with the governing body thereof, setting forth the change proposed in the metes and bounds of the municipality, and asking that a vote be taken upon the proposed change. Such~~ The petition shall be verified and shall be accompanied by an accurate survey map showing the territory which would be eliminated from the corporate limits by the proposed change: *Provided*, That within 90 days after notice of the petition shall have been given by publication of a Class II-0 legal advertisement pursuant to §59-3-1 et seq., of this code, cost to be paid by the petitioners each business and freeholder within the territory proposed for elimination may file a sworn statement objecting to the change to the metes and bounds of the municipality. If a business or freeholder files a timely objection, that property shall remain within the territory or the municipality and shall be removed from the metes and bounds description and survey map submitted to the qualified voters as provided in this section. The governing body, upon bond in penalty prescribed by the governing body with good and sufficient surety being given by petitioners, and conditioned to pay the costs of such election if a majority of the legal votes cast are against the proposed change in boundary, shall thereupon order a vote of the qualified voters of such municipality to be taken upon the proposed change on a date and at a time and place therein to be named in the order, not less than 20 nor more than 30 days from the date thereof. The governing body shall cause the order to be published, at the cost of the municipality, as a Class II-0 legal advertisement in compliance with ~~the provisions of~~ §59-3-1 et seq. of this code, and the publication area for such publication shall be the municipality. The first publication ~~must~~ shall be at least 14 days prior to the date upon which the vote is to be taken. The order so published shall contain an accurate description by metes and bounds of the territory which would be eliminated from the corporate limits by the proposed change, and, if practicable, shall also contain a popular description of ~~such~~ the territory.

The election shall be held, superintended, and conducted, and the results thereof ascertained, certified, returned, and canvassed in the same manner and by the same individuals as elections

for municipal officers. The ballots, or ballot labels where voting machines are used, shall have written, or printed on them the words:

For Decrease of Corporate Limits

Against Decrease of Corporate Limits

When an election is held in any municipality in accordance with the provisions of this section, another such election relating to the same proposed change or any part thereof shall not be held for a period of one year.

If a majority of all of the legal votes cast within such municipality are in favor of the proposed change, then the governing body shall proceed as specified in the immediately succeeding section of this article.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 695, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Caputo, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woodrum, and Blair (Mr. President)—25.

The nays were: Baldwin, Beach, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, and Woelfel—9.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 695) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Boley, Caputo, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woodrum, and Blair (Mr. President)—25.

The nays were: Baldwin, Beach, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, and Woelfel—9.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 695) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 714, Relating to physician assistant practice act.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 3E. PHYSICIAN ASSISTANTS PRACTICE ACT.

§30-3E-1. Definitions.

As used in this article:

~~(1) "Advance duties" means medical acts that require additional training beyond the basic education program training required for licensure as a physician assistant.~~

~~(2) "Alternate collaborating physician" means one or more physicians licensed in this state and designated by the collaborating physician to provide collaboration with a physician assistant in accordance with an authorized practice agreement.~~

~~(3) "Approved program" means an educational program for physician assistants approved and accredited by the Accreditation Review Commission on Education for the Physician Assistant or its successor. Prior to 2001, approval and accreditation would have been by either the Committee on Allied Health Education and Accreditation or the Commission on Accreditation Review Commission on Education for the Physician Assistant of Allied Health Education Programs.~~

~~(4) "Boards" means the West Virginia Board of Medicine and the West Virginia Board of Osteopathic Medicine.~~

~~(5) "Chronic condition" means a condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication, and does not generally disappear. These conditions include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes, epilepsy and seizures, and obesity.~~

~~(6) "Collaborating physician" means a doctor of medicine, osteopathy, or podiatry fully licensed, by the appropriate board in this state, without restriction or limitation, who collaborates with physician assistants.~~

~~(7) "Collaboration" means overseeing the activities of the medical services rendered by a physician assistant. Constant physical presence of the collaborating physician is not required as long as the collaborating physician and physician assistant are, or can be, easily in contact with one another by telecommunication. Collaboration does not require the personal presence of the collaborating physician at the place or places where services are rendered.~~

~~(8) "Endorsement" means a summer camp or volunteer endorsement authorized under this article.~~

~~(9) "Health care facility" means any licensed hospital, nursing home, extended care facility, state health or mental institution, clinic, or physician office.~~

~~(10) "Hospital" means a facility licensed pursuant to §16-5B-1 et seq. of this code and any acute care facility operated by the state government that primarily provides inpatient diagnostic, treatment, or rehabilitative services to injured, disabled, or sick persons under the supervision of physicians and includes psychiatric hospitals.~~

(11) "License" means a license issued by either of the boards pursuant to the provisions of this article.

(12) "Licensee" means a person licensed pursuant to the provisions of this article.

(13) "Physician" means a doctor of allopathic or osteopathic medicine who is fully licensed pursuant to the provisions of either §30-3-1 et seq. or §30-14-1 et seq. of this code to practice medicine and surgery in this state.

(14) "Physician assistant" means a person who meets the qualifications set forth in this article and is licensed pursuant to this article to practice medicine under with a collaboration collaborating physician.

~~(15) "Practice agreement" means a document that is executed between a collaborating physician and a physician assistant pursuant to the provisions of this article, and is filed with and approved by the appropriate licensing board.~~

(16) "Practice notification" means a written notice to the appropriate licensing board that a physician assistant will practice in collaboration with one or more collaborating physicians ~~in a hospital~~ in the state of West Virginia.

§30-3E-2. Powers and duties of the boards.

In addition to the powers and duties set forth in this code for the boards, the boards shall:

- (1) Establish the requirements for licenses and temporary licenses pursuant to this article;
- (2) Establish the procedures for submitting, approving, and rejecting applications for licenses and temporary licenses;
- (3) Propose rules for legislative approval in accordance with the provisions of ~~article three, chapter twenty-nine~~ a §29A-3-1 et seq. of this code to implement the provisions of this article;
- (4) Compile and publish an annual report that includes a list of currently licensed physician assistants ~~their collaborating physicians~~ and their primary practice locations in the state; and
- (5) Take all other actions necessary and proper to effectuate the purposes of this article.

§30-3E-3. Rulemaking.

(a) The boards shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to implement the provisions of this article, including:

- (1) The extent to which physician assistants may practice in this state;
- (2) The extent to which physician assistants may pronounce death;

- (3) Requirements for licenses and temporary licenses;
- (4) Requirements for ~~practice agreements and~~ practice notifications;
- (5) Requirements for continuing education;
- (6) Conduct of a licensee for which discipline may be imposed;

(7) The eligibility and extent to which a physician assistant may prescribe, including: A state formulary classifying those categories of drugs which may not be prescribed by a physician assistant, including, but not limited to, Schedules I and II of the Uniform Controlled Substances Act, antineoplastics, radiopharmaceuticals, and general anesthetics: Provided, That a physician assistant or an advanced practice registered nurse may prescribe no more than a three-day supply, without refill, of a drug listed in the Uniform Controlled Substances Act as a Schedule II drug. Drugs listed under Schedule III shall be limited to a 30-day supply without refill. In addition to the above referenced provisions and restrictions and pursuant to a ~~practice agreement or~~ practice notification as set forth in this article, the rules shall permit the prescribing of an annual supply of any drug, with the exception of controlled substances, which is prescribed for the treatment of a chronic condition, other than chronic pain management. For the purposes of this section, a chronic condition is a condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication, and does not generally disappear. These conditions, with the exception of chronic pain, include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes, epilepsy and seizures, and obesity;

~~(8) The authority a collaborating physician may delegate for prescribing, dispensing, and administering of controlled substances, prescription drugs, or medical devices if the practice agreement includes:~~

~~(A) A notice of intent to delegate prescribing of controlled substances, prescription drugs, or medical devices;~~

~~(B) An attestation that all prescribing activities of the physician assistant shall comply with applicable federal and state law governing the practice of physician assistants;~~

~~(C) An attestation that all medical charts or records shall contain a notation of any prescriptions written by a physician assistant;~~

~~(D) An attestation that all prescriptions shall include the physician assistant's name and the collaborating physician name, business address, and business telephone number legibly written or printed; and~~

~~(E) An attestation that the physician assistant has successfully completed each of the requirements established by the appropriate board to be eligible to prescribe pursuant to a practice agreement accompanied by the production of any required documentation establishing eligibility;~~

~~(9)~~ (8) A fee schedule; and

~~(10)~~ (9) Any other rules necessary to effectuate the provisions of this article.

(b) The boards may propose emergency rules pursuant to §29A-3-1 *et seq.* of this code to ensure conformity with this article.

§30-3E-4. License to practice as a physician assistant.

(a) A person seeking licensure as a physician assistant shall apply to the Board of Medicine or to the Board of Osteopathic Medicine. The appropriate board shall issue a license to practice as a physician assistant with the collaboration of that board's licensed physicians or podiatrists.

(b) A license may be granted to a person who:

(1) Files a complete application;

(2) Pays the applicable fees;

(3) Demonstrates to the board's satisfaction that he or she:

(A) Obtained a baccalaureate or master's degree from an accredited program of instruction for physician assistants;

(B) Prior to July 1, 1994, graduated from an approved program of instruction in primary health care or surgery; or

(C) Prior to July 1, 1983, was certified by the Board of Medicine as a physician assistant then classified as Type B;

(4) Has passed the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants;

(5) Has a current certification from the National Commission on Certification of Physician Assistants or has a current license in good standing from a state that does not require a physician assistant to maintain national certification;

(6) Is mentally and physically able to engage safely in practice as a physician assistant;

(7) Has not had a physician assistant license, certification, or registration in any jurisdiction suspended or revoked;

(8) Is not currently subject to any limitation, restriction, suspension, revocation, or discipline concerning a physician assistant license, certification, or registration in any jurisdiction: *Provided*, That if a board is made aware of any problems with a physician assistant license, certification, or registration and agrees to issue a license, certification, or registration notwithstanding the provisions of this subdivision or subdivision (7) of this subsection;

(9) Is of good moral character; and

(10) Has fulfilled any other requirement specified by the appropriate board.

(c) A board may deny an application for a physician assistant license to any applicant determined to be unqualified by the board.

§30-3E-9. Practice requirements.

(a) A physician assistant may not practice independent of a collaborating physician.

~~(b) A physician assistant may practice in a hospital in collaboration with physicians after filing a practice notification with the appropriate board. A physician assistant may practice in collaboration with physicians in any practice setting pursuant to a practice notification which has been filed with, and activated by, the appropriate board in accordance with §30-3E-10a of this code: *Provided*, That a physician assistant who is currently practicing in collaboration with physicians pursuant to a practice agreement which was authorized by a board prior to June 1, 2021 may continue to practice under that authorization until the practice agreement terminates or until June 1, 2022, whichever is sooner.~~

~~(c) Except as set forth in subsection (b) of this section, before a licensed physician assistant may practice and before a collaborating physician may delegate medical acts to a physician assistant, the collaborating physician, and the physician assistant shall:~~

~~(1) File a practice agreement with the appropriate licensing board, including any designated alternate collaborating physicians;~~

~~(2) Pay the applicable fees; and~~

~~(3) Receive written authorization from the appropriate licensing board to commence practicing as a physician assistant pursuant to the practice agreement.~~

~~(d) A physician applying to collaborate with a physician assistant shall affirm that:~~

~~(1) The medical services set forth in the practice agreement are consistent with the skills and training of the collaborating physician and the physician assistant; and~~

~~(2) The activities delegated to a physician assistant are consistent with sound medical practice and will protect the health and safety of the patient.~~

~~(e) A collaborating physician may enter into practice agreements with up to five full-time physician assistants at any one time.~~

~~(f) A physician may collaborate with physician assistants in a hospital as approved by the hospital.~~

(c) Notwithstanding any other provision of this code to the contrary, and to the degree permitted by federal law, physician assistants shall be considered providers and shall not be reimbursed at rates lower than other providers who render similar health services by health insurers as well as health plans operated or paid for by the state.

§30-3E-10. Practice agreement requirements.

[Repealed.]

§30-3E-10a. Practice notification requirements.

~~(a) A physician assistant shall collaborate with physicians in a hospital only after the physician assistant is notified by the appropriate licensing board that a complete practice notification has~~

~~been filed with the board. Before a licensed physician assistant may practice in collaboration with physicians, the physician assistant and a health care facility shall:~~

~~(1) File a practice notification with the appropriate licensing board;~~

~~(2) Pay the applicable fee; and~~

~~(3) Receive written notice from the appropriate licensing board that the practice notification is complete and active.~~

(b) The licensing boards shall promulgate emergency rules to establish the content and criteria for submission of practice notifications ~~for physician-assistant hospital practice.~~

(c) A physician assistant shall notify the board, in writing, within 10 days of the termination of a practice notification. Failure to provide timely notice of the termination constitutes unprofessional conduct and disciplinary proceedings may be instituted by the appropriate licensing board.

§30-3E-11. Collaboration with physician assistants.

~~(a) A licensed physician or podiatrist may collaborate with a physician assistant:~~

~~(1) As a collaborating physician in accordance with an authorized practice agreement;~~

~~(2) As an alternate collaborating physician who:~~

~~(A) Collaborates in accordance with an authorized practice agreement;~~

~~(B) Has been designated an alternate collaborating physician in the authorized practice agreement; and~~

~~(C) Only delegates those medical acts that have been authorized by the practice agreement and are within the scope of practice of both the primary collaborating physician and the alternate collaborating physician; or~~

~~(3) In a hospital pursuant to a practice notification.~~

(a) Unless otherwise prohibited by a health care facility, a physician who practices medicine or podiatry at a health care facility may collaborate with any physician assistant who holds an active practice notification with the same facility.

(b) A collaborating physician. When collaborating with physician assistants, collaborating physicians shall observe, direct, and evaluate the physician assistant's work, records, and practices including collaborating with the physician assistant in the care and treatment of a patient in a health care facility as necessary for appropriate and meaningful collaboration.

(c) A health care facility is only legally responsible for the actions or omissions of a physician assistant when the physician assistant is employed by or on behalf of the facility.

(d) Every licensed physician assistant shall be individually responsible and liable for the care they provide. This article does not relieve physician assistants or collaborating physicians of responsibility and liability which otherwise may exist for acts and omissions occurring during collaboration.

§30-3E-12. Scope of practice.

(a) A license issued to a physician assistant by the appropriate state licensing board shall authorize the physician assistant to perform medical acts: commensurate with their education, training, and experience and which they are competent to perform, consistent with the rules of the boards. Medical acts include prescribing, dispensing, and administering of controlled substances, prescription drugs, or medical devices.

~~(1) Pursuant to a practice notification or delegated to the physician assistant as part of an authorized practice agreement~~

~~(2) Appropriate to the education, training, and experience of the physician assistant;~~

~~(3) Customary to the practice of the collaborating physician; and~~

~~(4) Consistent with the laws of this state and rules of the boards.~~

(b) A physician assistant shall provide only those medical services for which they have been prepared by their education, training, and experience and are competent to perform, consistent with sound medical practice and that will protect the health and safety of the patient. This may occur in any health care setting, both hospital and outpatient in accordance with their practice notification.

(c) A physician assistant with an active practice notification may perform medical acts and/or procedures in collaboration with physicians which are consistent with the physician assistant's education, training and experience, the collaborating physician scope of practice, and any credentialing requirements of the health care facility where the physician assistant holds an active practice notification.

~~(b)~~ (d) This article does not authorize a physician assistant to perform any specific function or duty delegated by this code to those persons licensed as chiropractors, dentists, dental hygienists, optometrists, or pharmacists, or certified as nurse anesthetists.

§30-3E-13. Identification.

(a) While practicing, a physician assistant shall wear a name tag that identifies him or her as a physician assistant.

(b) A physician assistant shall keep his or her license and ~~current practice agreement or~~ practice notification available for inspection at his or her place of practice.

§30-3E-17. Complaint process.

(a) All hearings and procedures related to denial of a license, and all complaints, investigations, hearings, and procedures regarding a physician assistant license and the discipline accorded thereto, shall be in accordance with the processes and procedures set forth in either §30-3-1 et seq. or articles three and/or fourteen §30-14-1 et seq. of this chapter code, depending on which board licenses the physician assistant.

(b) The boards may impose the same discipline, restrictions, and/or limitations upon the license of a physician assistant as they are authorized to impose upon physicians and/or podiatrists.

(c) The boards shall direct to the appropriate licensing board a complaint against a physician assistant and/or ~~a collaborating physician and/or an alternate~~ a collaborating physician.

(d) In the event that independent complaint processes are warranted by the boards with respect to the professional conduct of a physician assistant or a collaborating ~~and/or alternate collaborating~~ physician, the boards are authorized to work cooperatively and to disclose to one another information which may assist the recipient appropriate licensing board in its disciplinary process. The determination of what information, if any, to disclose shall be at the discretion of the disclosing board.

(e) A physician assistant licensed under this article may not be disciplined for providing expedited partner therapy in accordance with ~~article four f, chapter sixteen~~ §16-4F-1 et seq. of this code.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Senate Bill 714—A Bill to repeal §30-3E-10 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-3E-1, §30-3E-2, §30-3E-3, §30-3E-4, §30-3E-9, §30-3E-10a, §30-3E-11, §30-3E-12, §30-3E-13, and §30-3E-17 of said code, all relating to health care practitioners; defining terms; limiting rule-making authority; revising licensure requirements; revising practice requirements; eliminating practice agreement requirement; revising practice notification requirement; providing prescriptive authority; revising collaboration requirements; expanding scope of practice; expanding prescriptive authority; establishing minimum reimbursement rates; and revising complaint process.

Senator Takubo moved that the Senate concur in the House of Delegates amendments to the bill.

Following discussion,

The question being on the adoption of Senator Takubo's aforesaid motion, the same was put and prevailed.

Engrossed Senate Bill 714, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 714) passed with its House of Delegates amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Senate Bill 717, Supplemental appropriation from General Revenue to WV Community and Technical College Education, Control Account.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, of

Eng. Com. Sub. for House Bill 2005, Relating to health care costs.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, to take effect July 1, 2021, of

Eng. Com. Sub. for House Bill 2507, Remove the limitations on advertising and promotional activities by limited video lottery retailers.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, of

Eng. House Bill 2730, Relating to persons filing federal bankruptcy petition to exempt certain property of the estate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the changed effective date, to take effect from passage, of

Eng. Com. Sub. for House Bill 2773, Permitting DNR to issue up to 100 permits for boats greater than 10 horsepower on Upper Mud River Lake.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, of

Eng. House Bill 2830, Relating generally to sex trafficking.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, of

Eng. Com. Sub. for House Bill 2842, Preventing cities from banning utility companies in city limits.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, of

Eng. Com. Sub. for House Bill 3254, Authorizing members of development authorities to accept federally authorized reimbursement for services which the members rendered on a voluntary basis.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 91—Requesting the Joint Committee on Government and Finance study the possible methods of retaining native businesses in West Virginia through the establishment of a “Business Retention Task Force”.

Referred to the Committee on Rules.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 104—Providing for the expiration of certain emergency orders issued during the coronavirus pandemic declared on March 16, 2020 in West Virginia.

Referred to the Committee on Rules.

Executive Communications

Senator Blair (Mr. President) laid before the Senate the following communication from His Excellency, the Governor, regarding annual reports, which communication was received and filed with the Clerk:



Jim Justice
Governor of West Virginia

April 8, 2021

Executive Message 3
2021 Regular Session

The Honorable Craig Blair
President, West Virginia State Senate
State Capitol, Rm 229M
Charleston, WV 25305

Dear Mr. President:

Pursuant to the provisions of section twenty, article one, chapter five of the Code of West Virginia, I hereby certify that the following annual reports have been received in the Office of the Governor:

211, West Virginia; 2020 Impact Report

Administration, West Virginia Department of; Real Estate Division "2020 Real Property and Lease Report"

Administration, West Virginia Department of; "Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2020"

Administration, West Virginia Department of; State Building Commission Fund

Agriculture, West Virginia Department of; 2020 Annual Report

Agriculture, West Virginia Department of; Annual Report for the WV Farms-to Food Bank Tax Credit for calendar years 2019 and 2020

American Bar Foundation; 2019 Annual Report

Architects, West Virginia Board of; Annual Report FY 2020 & FY 2019

Attorney General's Office, West Virginia; "Seventy-Eighth Biennial Report and Official Opinions of the Attorney General of the State of West Virginia for the Fiscal Years Beginning July 1, 2018 and ending June 30, 2020"

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

OFFICE OF THE GOVERNOR

Attorney General's Office, West Virginia; "2020 Annual Report on the Activities of the Consumer Protection and Antitrust Division"

Attorney General's Office, West Virginia; Annual Report 2020

Barbers and Cosmetologists, State of West Virginia Board of; 2020 Annual Report

Board of Pharmacy, West Virginia; Annual Report on the West Virginia Controlled Substances Monitoring Program

Broadband Enhancement Council, West Virginia; 2020 Annual Report

Chiropractic Examiners, State of West Virginia Board of; Biennium Report July 1, 2018 to June 30, 2020

Coal Mine Health and Safety, State of West Virginia Board of; 2020 Annual Report

Commerce, West Virginia Department of; Tourism Development Act Report 2020

Commerce, West Virginia Department of; FY20 TIF Annual Report

Commercial Motor Vehicle Weight and Safety Enforcement Advisory Committee; 2020 Annual Report

Community Action of South Eastern West Virginia, Inc. (CASEWV); 2021 CASEWV Annual Report for its Head Start and Early Head Start Programs

Consolidated Public Retirement Board; West Virginia State Police Disability Experience Annual Report Fiscal Year 2020

Consolidated Public Retirement Board, West Virginia; 2020 Comprehensive Annual Financial Report

Consumer Advocate, Office of the West Virginia; Consumer Advocate Division 2021 Annual Report

Counseling, State of West Virginia Board of Examiners in; Biennium Report July 1, 2018-June 30, 2020

Dentistry, West Virginia Board of; Report of the Biennium for Fiscal Years 2019 & 2020

Development Office, West Virginia; Annual Report 2019

Development Office, West Virginia; FY 2019 Neighborhood Investment Program Annual Report

Development Office, West Virginia; 2018 Final Report on the Assessment 2015-2017

Engineers, West Virginia State Board of Registration for Professional; Annual Report FY2020

Environmental Protection, West Virginia Department of; 2020 Monthly and Year to Date OOG Permit Issuance Averages

Equal Employment Opportunity, West Virginia; 2020 Annual Report

Fire Commission, West Virginia State; FY 2020 Annual Report

Fire Marshal's Office, West Virginia State; FY 2020 Annual Report

Forestry, West Virginia Division of; Outdoor Heritage Conservation Funding Annual Report

OFFICE OF THE GOVERNOR

Forestry, West Virginia Division of; 2020 Stewardship Projects Annual Report

Forestry, West Virginia Division of; Report on Managed Timberland Program

Government Accountability, Foundation for; 2019 Annual Report

Grievance Board, Public Employees; 2020 Annual Report

Health and Human Resources, West Virginia Department of; Annual Report on the Olmstead Plan July 1, 2019-June 30, 2020

Health and Human Resources, West Virginia Department of; "Family Protection Services Board 2020 Annual Report July 1, 2019-June 30, 2020"

Health and Human Resources, West Virginia Department of; Office of Maternal, Child and Family Health (West Virginia Birth Defects) Calendar Years 2018 and 2019 (January-December)

Health and Human Resources, West Virginia Department of; Bureau for Public Health- West Virginia Office of Medical Cannabis Biennial Report 2021

Health and Human Resources, West Virginia Department of; Bureau for Behavioral Health- West Virginia Family & Community Support Program FY 2020 Annual Report

Health and Human Resources, West Virginia Department of; West Virginia Women's Commission 2020 Annual Report

Highways, West Virginia Division of; Annual Report (The Complete Streets Advisory Board)

Homeland Security, West Virginia Department of; Accomplishments 2017-2020 Report

Human Rights Commission, West Virginia; Annual Report 2020

Independent Living Council, West Virginia Statewide; "The State of Education for Children with Disabilities in West Virginia-Education Task Force; Annual Report 2019-2020"

Insurance Commissioner, State of West Virginia Offices of the; Occupational Pneumoconiosis Board 2019-2020 Annual Report

Insurance Commissioner, State of West Virginia Offices of the; West Virginia State Agency Workers' Compensation Annual Report

Insurance Commissioner, State of West Virginia Offices of the; 2019-2020 Annual Report

Insurance Commissioner, State of West Virginia Offices of the; Consumer Advocate Annual Report

Insurance Commissioner, State of West Virginia Offices of the; 2020 Annual Medical Malpractice Report

Judicial Compensation Commission, West Virginia; Report of the Judicial Compensation Commission 2020

Justice and Community Services, Division of Administrative; "Justice Reinvestment Initiative S.B. 371 July 1, 2019-June 30, 2020 Annual Report"

Justice and Community Services, Division of Administrative; "Juvenile Justice Subcommittee September 1, 2019-August 31, 2020 Annual Report"

OFFICE OF THE GOVERNOR

Justice and Community Services, Division of Administrative; "Sexual Assault Forensic Examination (SAFE) Commission Annual Report September 1, 2019-August 31, 2020"

Justice and Community Services, Division of Administrative; "West Virginia Community Corrections Act July 1, 2019-June 30, 2020 Annual Report"

Justice and Community Services, Division of Administrative; "Law Enforcement Professional Standards (LEPS) Subcommittee/Program July 1,2019-June 30, 2020"

Land Trust, West Virginia; Annual Report 2019

Legislative Claims Commission, West Virginia; Supplemental Report December 2020

Legislative Claims Commission, West Virginia; November 2020 Report of the Legislative Claims Commission

Lottery, West Virginia; "Comprehensive Annual Financial Report for the Fiscal Years Ended June 30, 2019 and 2018"

Lottery, West Virginia; 2020 Comprehensive Annual Financial Report for the Fiscal Years Ended June 30, 2020 and 2019

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending February 29, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending March 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending April 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending May 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending June 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending July 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending August 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending September 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending October 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending November 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending December 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending January 31, 2021

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending February 28, 2021

Medical Imaging and Radiation Therapy Technology Board of Examiners, West Virginia; Annual Report 2020

Municipal Bond Commission, West Virginia; Annual Summary of Receipts and Disbursements July 1, 2019-June 30, 2020

National Coal Heritage Area Authority; 2020 Annual Report

Natural Resources, West Virginia Division of; 2019-2020 West Virginia Division of Natural Resources Annual Report

OFFICE OF THE GOVERNOR

Nursing Home Administrators Licensing Board; Annual Report 2020

Occupational Therapy, West Virginia Board of; Annual Report 2019-2020

Osteopathic Medicine, West Virginia School of; Annual Report

Privacy Office, West Virginia State; 2018-2019 Annual Report

Psychologists, West Virginia Board of; 2019-2020 Annual Report

Public Service Commission, West Virginia; State of West Virginia Public Utility Assessments Tax Year 2021

Public Service Commission, West Virginia; 2020 Management Summary Report and the Electric and Natural Gas Utilities Supply-Demand Forecasts for 2021-2030

Public Transit, West Virginia Division of Transportation/Division; 2019 Annual State Safety Oversight Report to the Governor

Regional Councils, West Virginia Association of; 2019 Annual Report

Regional Intergovernmental Council; 2020 Annual Report Boone, Clay, Kanawha and Putnam

Risk and Insurance Management, State of West Virginia Department of Administration; BRIM Annual Report 2020

Ron Yost Personal Assistance Services; 2020 Annual Report

Southern States Energy Board; Annual Report 2020

Tax Department, West Virginia State; "Manufacturing Property Tax Adjustment Credit Report to the Joint Committee on Government and Finance July 1, 2020"

Tax Department, West Virginia State; Tax Credit Review and Accountability Report for the West Virginia Economic Opportunity Tax Credit and the West Virginia Manufacturing Investment Tax Credit

Tax Department, West Virginia State; West Virginia Tax Expenditure Study for 2021

Transportation, West Virginia Department of; Division of Public Transit- State Safety Oversight Program-2020 Annual Safety Report to the Governor

Transportation, West Virginia Department of; The Office of Administrative Hearings Annual Report Fiscal Year 2020

Transportation, West Virginia Department of; Aeronautics Commission 2020 Annual Report to the Governor

Treasurer, West Virginia State; Cash Management Improvement Act CIMA Annual Report for fiscal years 2020

Treasury Investments, West Virginia Board of; "Audited Financial Statements with Supplementary & Other Financial Information Year Ended 6/30/20"

Treasury Investments, West Virginia Board of; Comprehensive Annual Financial Report Fiscal Year Ended

OFFICE OF THE GOVERNOR

Veterinary Medicine, West Virginia Board of; Biennium Report 2019 and 2020

Water Development Authority, West Virginia; 2020 Annual Report

Water Sanitation Commission, Ohio River Valley; Annual Report

Sincerely,



Jim Justice
Governor

cc: Lee Cassis, Clerk, West Virginia State Senate
Division of Culture and History

Senator Blair (Mr. President) then laid before the Senate the following communication from His Excellency, the Governor, submitting the annual probation and parole report, which was received:



Jim Justice
Governor of West Virginia

April 8, 2021

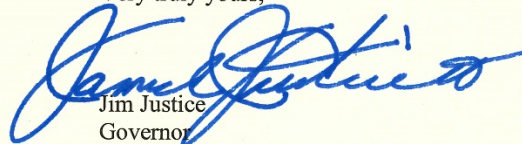
**EXECUTIVE MESSAGE NO. 4
2021 REGULAR SESSION**

The Honorable Craig Blair
President, Senate of West Virginia
State Capitol, Rm 228M
Charleston, West Virginia 25305

Dear Mr. President:

In accordance with the provisions of section 11, article 7 of the Constitution of the State of West Virginia, and section 16, article 1, chapter 5 of the Code of West Virginia, I hereby report that I granted no pardons or reprieves, nor commuted punishment to any person, nor remitted any fines or penalties, during the period of March 7, 2020 through April 7, 2021.

Very truly yours,


Jim Justice
Governor

cc: Lee Cassis, Senate of West Virginia
Division of Archives and History

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

At the request of Senator Woelfel, and by unanimous consent, Senator Woelfel addressed the Senate regarding the committee of conference for Engrossed Committee Substitute for House Bill 2003 (*Relating to the authority and obligations of the Governor and Legislature when in declared states of preparedness and emergency*).

Thereafter, at the request of Senator Plymale, and by unanimous consent, the remarks by Senator Woelfel were ordered printed in the Appendix to the Journal.

The Senate proceeded to the sixth order of business.

Senator Takubo offered the following resolution:

Senate Concurrent Resolution 76—Requesting the Joint Committee on Government and Finance study mental health parity in the State of West Virginia.

Whereas, Mental health parity is complicated and difficult to ascertain even among mental health providers and insurers; and

Whereas, On one hand, providers of mental health services believe that these services are not being reimbursed or delivered on par with physical health services; yet, insurance companies believe that medical necessity criteria and their own internal standards should dictate the level of care; and

Whereas, To determine whether or not these services are being properly reimbursed or delivered, data must be produced by the insurance company; and

Whereas, Federal mental health parity laws require that limitations on mental health and addiction treatment be no greater than those for medical or surgical benefits; and

Whereas, Recently a federal court concluded in *Wit. V. United Healthcare* that the health insurer “breached its fiduciary duty by violating its duty of loyalty, its duty of care, and its duty to comply with plan terms by adopting Guidelines that [were] unreasonable and [did] not reflect generally accepted standards of care” for both residential mental health treatment and intensive outpatient mental health treatment. The court further states that insureds were harmed by being denied their right to fair adjudication of their claims for coverage based on guidelines that were developed solely for the insurer’s benefit. Furthermore, the court found “by a preponderance of the evidence, that [the insurer’s] guidelines were unreasonable and an abuse of discretion because they were more restrictive than generally accepted standards of care.”; and

Whereas, Mental health care providers experience burdensome utilization review paperwork and overly frequent reviews; and

Whereas, Managed care organizations are not following American Society of Addiction Medicine’s criteria for addiction treatment; and

Whereas, Timeliness of prior authorization denials for mental health care treatment by managed care organizations are resulting in loss of revenue for providers; and

Whereas, There are many inconsistencies between managed care organizations for mental health treatment guidelines which make consistent treatment difficult; and

Whereas, West Virginia is facing an ongoing opioid addiction epidemic, which harms not only affected citizens, but their families and communities; and

Whereas, Mental health initiatives are becoming increasingly important across the country as mental health diagnoses have risen; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study mental health parity in the State of West Virginia; and, be it

Further Resolved, That the study include analysis of guidelines used by managed plan organizations and health insurers in the state as applied to nonquantitative treatment limitations for benefits for behavioral health, mental health, and substance use disorders; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from the legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senators Stollings and Caputo offered the following resolution:

Senate Concurrent Resolution 77—Requesting the Joint Committee on Government and Finance to study the fiscal impact of elimination or reduction of current tangible property tax, including commercial machinery and equipment, business inventory and tangible personal property, and corresponding revenue replacement mechanisms to mitigate the budgetary effects on political subdivisions including county and municipal governments, county school boards, and levying bodies.

Whereas, Property taxes provide substantial revenues necessary to finance the provisions of local government services and substantive modifications to the current property taxation may significantly impact delivery of such; and

Whereas, Elimination or reduction of property taxes will have a disparate effect on political subdivisions across this state; and

Whereas, Revenue replacement mechanisms will also have a disparate effect in mitigating potential losses resulting from the elimination or reduction of property taxes; and

Whereas, Participation by all impacted political subdivisions and levying bodies is tantamount to ensuring sustainable delivery of public services to the citizenry; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the fiscal impact of elimination or reduction of current tangible property tax, including commercial machinery and equipment, business inventory and tangible personal property, and corresponding revenue replacement mechanisms to mitigate the budgetary effects on political subdivisions including county and municipal governments, county school boards and levying bodies; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senator Maroney offered the following resolution:

Senate Resolution 47—Recognizing the contributions of AARP West Virginia and its Capitol Advocacy Team of volunteers to the betterment of our state and its people.

Whereas, AARP West Virginia is a nonprofit, nonpartisan membership organization representing 250,000 West Virginians and 38 million individuals nationwide who are 50 years of age or older; and

Whereas, AARP and its Capitol Advocacy Team of nearly 30 dedicated volunteers actively participate in the legislative process each year, bringing an important perspective to the development of policies and laws that affect our state's most vulnerable population and all those living and working in the Mountain State; and

Whereas, Even as the COVID-19 pandemic limited public access and in-person attendance at the State Capitol throughout the regular session of the Legislature, 2021, AARP and its volunteers continued to actively engage with the West Virginia Legislature virtually from their homes and communities; and

Whereas, The dedication of these volunteers embodies the spirit of AARP founder Dr. Ethel Percy Andrus, who said “. . . the human contribution is the essential ingredient. It is only in the giving of oneself to others that we truly live.”; and

Whereas, The words of Dr. Andrus continue to shape the work of AARP and its volunteers in helping people aged 50-plus live their best lives; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes the contributions of AARP West Virginia and its Capitol Advocacy Team of volunteers to the betterment of our state and its people; and, be it

Further Resolved, That the Senate commends AARP West Virginia and its Capitol Advocacy Team of volunteers for their dedicated service and important contributions to AARP's work to improve the quality of life for all West Virginians as they age; and, be it

Further Resolved, That the Senate extends its sincere appreciation and gratitude to AARP West Virginia for its diligent advocacy and education efforts that raise awareness around the important issues affecting older West Virginians and their families; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of AARP West Virginia.

Which, under the rules, lies over one day.

Senators Boley and Azinger offered the following resolution:

Senate Resolution 48—Recognizing West Virginia University at Parkersburg on the occasion of its 60th anniversary.

Whereas, West Virginia University (WVU) at Parkersburg was founded in 1961, as the Parkersburg branch of West Virginia University and had an enrollment of 104 students; and

Whereas, WVU at Parkersburg is the state's only public institution founded by citizens who passed a bond levy to build the college; and

Whereas, In 1969, construction was completed on the campus complex on West Virginia 47 east of Parkersburg; and

Whereas, WVU at Parkersburg became one of the state's first comprehensive community colleges in July 1971, as Parkersburg Community College; and

Whereas, In 1989, the West Virginia Legislature established the college as West Virginia University at Parkersburg, a regional campus of West Virginia University; and

Whereas, In 1991, WVU at Parkersburg was accredited to offer baccalaureate degrees in business administration and elementary education, becoming the only community college in West Virginia to offer bachelor's degrees; and

Whereas, Through the years, WVU at Parkersburg has continued to grow, adding the Caperton Center for Applied Technology, the Applied Technology Center, offering a Bachelor of Applied Technology degree, and becoming a leader of higher education in West Virginia; and

Whereas, WVU at Parkersburg continually reinvents itself to serve the region's changing educational needs and to deliver workforce-ready graduates; and

Whereas, WVU at Parkersburg is a student-centered, accessible learning community dedicated to providing accessible, life-changing educational opportunities in a safe and supportive environment; and

Whereas, The faculty, staff, and administration of WVU at Parkersburg, individually and collectively, hold the responsibility of providing educational and cultural opportunities in the college's service community, based upon the following principles: Education holds a central position in the creation, development, and nurturing of a society; education should be constantly cognizant of the fact that all persons are individuals of worth and are entitled to be treated with dignity and respect; education functions under the realization that equal opportunity to access and to benefit from teaching and learning must be afforded to all persons; education provides the

opportunity for all citizens in a democratic society to explore, to discover, and to develop their special aptitudes and interests; and education holds as a sacred trust its responsibility to assist persons in their quest for a fulfilling life and for responsible citizenship in a world characterized by change; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes West Virginia University Parkersburg on the occasion of its 60th anniversary; and, be it

Further Resolved, That the Senate extends its sincere gratitude and appreciation to West Virginia University at Parkersburg for its contributions to the State of West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the President of West Virginia University at Parkersburg, Dr. Chris Gilmer.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 73, Expiring certain executive emergency orders issued during coronavirus pandemic.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Rules.

Senate Resolution 44, Recognizing public service of Honorable Tod Kaufman.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Lindsay, unanimous consent being granted, the resolution was taken up for immediate consideration and reference to a committee dispensed with.

The question being on the adoption of the resolution, and on this question, Senator Lindsay demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 44) adopted.

Thereafter, at the request of Senator Beach, and by unanimous consent, the remarks by Senators Lindsay, Woelfel, Romano, and Trump regarding the adoption of Senate Resolution 44 were ordered printed in the Appendix to the Journal.

Senate Resolution 45, Recognizing centennial of WV Board of Architects.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Senate Resolution 46, Recognizing Buffalo Elementary on being Imagine Learning's March MATH Madness champions.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Stollings, unanimous consent being granted, the resolution was taken up for immediate consideration and reference to a committee dispensed with.

The question being on the adoption of the resolution, and on this question, Senator Phillips demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 46) adopted.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for House Bill 2002, Relating to Broadband.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Plymale, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motion of Senator Plymale, the following amendment to the bill was reported by the Clerk:

On page eighteen, section six, after line three by inserting a new section, designated section seven, to read as follows:

§31G-1A-7. Creation and Administration of Broadband Funds.

(a) There is hereby created in the State Treasury a fund known as the Broadband Middle Mile Fund. The fund shall be administered by and under the control of the Office of Broadband. Expenditures from the fund shall be for the purposes set forth in this section and are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article two, chapter eleven-b of this code.

(1) The fund shall consist of moneys appropriated by the Legislature. The amount appropriated shall be transferred to the fund to be used solely for the purposes provided by this section.

(2) Expenditures from the fund shall be for the purposes of constructing middle mile fiber broadband to unserved and unfunded areas on the broadband availability map as so designated by the Office of Broadband and pursuant to this code: *Provided*, That if a broadband project is funded solely with public money, the project shall be an open access project.

(b) There is hereby created in the State Treasury a fund known as the Broadband Grant Matching Fund. The fund shall be administered by and under the control of the Office of Broadband. Expenditures from the fund shall be for the purposes set forth in this section and are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article two, chapter eleven-b of this code.

(1) The fund shall consist of moneys appropriated by the Legislature. The amount appropriated shall be transferred to the fund to be used solely for the purposes provided by this section.

(2) Expenditures from the fund shall be for the purposes of facilitating broadband projects which require up to a 50% match from sources other than the primary grantor and which extends or improves broadband access in this state. No expenditures shall be made from this fund until and unless satisfactory documentation of financial need is provided to the office and approved by the director: *Provided*, That but for this assistance, the grantee would be unable to be awarded or benefited by a grant.

(c) There is hereby created in the State Treasury a fund known as the Broadband Provider Expansion Fund. The fund shall be administered by and under the control of the Office of Broadband. Expenditures from the fund shall be for the purposes set forth in this section and are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article two, chapter eleven-b of this code.

(1) The fund shall consist of moneys appropriated by the Legislature. The amount appropriated shall be transferred to the fund to be used solely for the purposes provided by this section.

(2) Expenditures from the fund shall be for the purposes of supporting existing broadband providers to extend their last mile networks within unserved and unfunded areas as indicated on the broadband availability map as so designated by Office of Broadband and pursuant to this code. The following amounts shall be made available to broadband providers, not receiving any other financial support in the eligible area, to provide service to unserved and unfunded areas after the provider demonstrates to the director that they have completed the necessary infrastructure build to serve a home or business premises including verifiable speed test data with GPS coordinates and a signed affidavit indicating under criminal penalties that to the best of the provider's knowledge no other terrestrial broadband service was available to the premises at the time of installation:

(A) A provider shall receive \$2,000 per premises for completing infrastructure installation to a residence or business with

(i) an actual downstream data rate of at least 1,000 megabits per second; and

(ii) an actual upstream data rate of at least 50 megabits per second; and

(iii) unlimited data usage without overage charges; and

(iv) unlimited data usage without “throttling” or reduction of downstream or upstream data rate due, in whole or in part, to the amount of data transferred in any period; or

(B) A provider shall receive \$500 per premises for completing infrastructure installation to a residence or business with a terrestrial wired or fixed wireless connection with

(i) an actual downstream data rate of at least 25 megabits per second; and

(ii) an actual upstream data rate of at least three megabits per second; and

(iii) unlimited data usage without overage charges; and

(iv) unlimited data usage without “throttling” or reduction of downstream or upstream data rate due, in whole or in part, to the amount of data transferred in any period.

(3) Disbursements from this fund shall be made available on a first-come, first-served basis and shall be expended and made available to providers until the fund is depleted. Upon additional legislative appropriation into this fund, disbursements shall be disbursed again in like fashion until the fund is depleted.

Following discussion,

The question being on the adoption of Senator Plymale’s amendment to the bill, the same was put and prevailed.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2002), as amended on Wednesday, April 7, 2021, and as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2002 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Stollings, Stover, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Smith and Sypolt—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2002) passed.

On motion of Senator Maynard, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2002—A Bill to repeal §17-2E-6 of the Code of West Virginia, 1931, as amended; to repeal §31G-1-6, §31G-1-9, and §31G-1-12 of said code; to amend and reenact §17-2E-3, §17-2E-5, §17-2E-7, §17-2E-8, and §17-2E-9 of said code; to amend and reenact §31G-1-4 of said code; to amend said code by adding thereto a new article, designated §31G-1A-1, §31G-1A-2, §31G-1A-3, §31G-1A-4, §31G-1A-5, §31G-1A-6, and §31G-1A-7; to amend said code by adding thereto a new section, designated §31G-3-3 and §31G-3-4; to amend and reenact §31G-4-1, §31G-4-2, and §31G-4-4 of said code; and to amend said code by adding thereto a new article, designated §31G-6-1 and §31G-6-2, all relating to broadband expansion policies; establishing requirements for agreements between the Division of Highways and an entity seeking to install telecommunications facilities; providing that if such installation can be accommodated as a utility pursuant to federal and state law, the division shall issue a permit for access to rights-of-way; providing for permit procedures and requirements; requiring notice to the Office of Broadband of a telecommunication entity's intent to seek construction in division rights-of-way; providing the Office of Broadband is responsible for ensuring compliance with certain terms of permit requirements; granting the division authority to determine whether its use of a telecommunication carrier's trench warrants apportionment of costs to it; modifying exceptions to dig once requirements; providing the division authority to allow carriers to use excess telecommunications facilities; allowing the division to transfer or assign ownership of excess telecommunications facilities to another state agency upon approval by Governor; providing rulemaking authority to the division; modifying the powers and duties of Broadband Enhancement Council; establishing the Office of Broadband within the Department of Economic Development; creating the position of the Director of the Office of Broadband; requiring the Office of Broadband report annually to the Joint Committee on Government and Finance; establishing the powers and duties of the Office of Broadband; requiring the Office of Broadband to coordinate with the Consumer Protection Division of the Attorney General's Office on specified consumer protection claims; requiring the Office of Broadband to map broadband in the state and establish an interactive public map; defining "unserved area"; requiring certain executive agencies to cooperate and provide information to the Office of Broadband regarding AREA maps; allowing Office of Broadband to establish a voluntary data collection program; providing that information collected in program not subject to the Freedom of Information Act; providing procedures and requirements for a data collection program; protecting proprietary business information provided to the Office of Broadband and exempting such information from Freedom of Information Act requirements; providing rulemaking authority to the Office of Broadband; creating specific broadband funds and establishing their purposes; establishing the Broadband Middle Mile Fund and specified requirements relating to the authorized expenditures of the funds; establishing the Broadband Grant Matching Fund and specified requirements relating to the authorized expenditures of the funds; establishing the Broadband Provider Expansion Fund and specified requirements relating to the authorized expenditures of the funds; providing that authorized expenditures from the Broadband Provider Expansion Fund require broadband providers to meet or exceed specified downstream and upstream data rates of broadband service; providing that expenditures from the Broadband Provider Expansion Fund are made available on a first-come, first-served basis; establishing requirements for counties, municipalities, and political subdivisions regarding installation of conduit; authorizing a broadband operator to construct or operate a system over public rights-of-way and through easements which are within the area to be served and which have been dedicated for compatible uses; establishing requirements for broadband operators related to installation and construction; requiring broadband operators to indemnify the state for any claims for injury and damage to persons or property; establishing requirements for broadband operator related to the use of public highways and other public places; providing installations in railroad rights of way and trackways do not have any greater or lesser requirement to comply with stated railroad safety requirements; establishing requirements for broadband operator related easements; defining terms; requiring that an ILEC who accepts payment for

make-ready work, and fails to perform that work within 45 days, to immediately return and refund the moneys paid for that work which was not completed, and providing remedies and exceptions in such instances; requiring the Public Service Commission to promulgate rules to address abandoned cable, conductor, and related facilities attached to utility poles and providing requirements for said rules; requiring the Public Service Commission to promulgate rules to govern the timely transfer of facilities from an old pole to a new pole and the removal of utility poles that have had electric facilities moved to new poles but continue to have other facilities attached in the telecommunications space on the old existing poles and providing requirements for said rules; providing for preemption of West Virginia Code, the Code of State Rules, and ordinances relating to installation of certain broadband equipment; providing private agreements, promulgated or effective after the effective date of this legislation, may not regulate or prevent the exterior installation of antennas and equipment necessary to or typically utilized for broadband deployment; providing for scheme of construction of such language in favor of encouraging and assisting broadband installation and deployment; providing for preemption of West Virginia Code, the Code of State Rules, and ordinances relating to pole attachment of certain broadband equipment; and providing for scheme of construction of language of private agreements relating to pole attachment.

Senator Takubo moved that the bill take effect May 27, 2021.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Stollings, Stover, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Smith and Sypolt—2.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2002) takes effect May 27, 2021.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 2029, Relating to teacher preparation clinical experience programs.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2029) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2145, Relating to student aide class titles.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2145) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2221, Relating to the establishment of an insurance innovation process.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2221) passed.

The following amendment to the title of the bill, from the Committee on Banking and Insurance, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2221—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-60-1, §33-60-2, §33-60-3, §33-60-4, §33-60-5, §33-60-6, §33-60-7, §33-60-8, §33-60-9, and §33-60-10, all relating to the establishment of an insurance innovation process; defining terms; setting forth application requirements; prohibiting certain persons from applying; providing for the acceptance or rejection of the application by the Insurance Commissioner; requiring that the Insurance Commissioner set forth certain terms and conditions that will govern a proposed insurance innovation; providing that the Insurance Commissioner issue a limited no-action letter that establishes a safe harbor under which the commissioner will not take administrative or regulatory action against a participant or

client of the participant; establishing the time period of the safe harbor and for the extension thereof; setting forth the requirements that a participant must adhere to during the safe harbor period; providing for penalties regarding violations of the terms contained in a limited no-action letter; providing the right to an administrative hearing; setting forth the criteria for the Insurance Commissioner to issue an extended no-action letter; providing for what the extended no-action letter must contain; requiring that documents and other information submitted to the Insurance Commissioner in relation to the insurance innovation be confidential and privileged; allowing the Insurance Commissioner to disclose in the extended no-action letter any information necessary to clearly establish the safe harbor; requiring the Insurance Commissioner to provide reports and, upon request, briefings to the Legislature; allowing the Insurance Commissioner to enter into reciprocity agreements with state, federal, or foreign regulatory agencies; and requiring rulemaking.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2266, Relating to expanding certain insurance coverages for pregnant women.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Maroney, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motion of Senator Maroney, the following amendment to the bill was reported by the Clerk and adopted:

On page two, section twelve, line twenty-seven, by striking out “123” and inserting in lieu thereof “203”.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2266), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2266 pass?”

On the passage of the bill, the yeas were: Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Azinger—1.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2266) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Azinger—1.

Absent: Plymale—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2266) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 2379, Make criminal invasion of privacy a felony.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Thursday, April 8, 2021, for further amendments to be received on third reading, was reported by the Clerk.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

On page two, section twenty-eight, line twenty-three, by striking out the word “confined” and inserting in lieu thereof the word “imprisoned”.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the Judiciary committee amendment to the bill was withdrawn.

On motion of Senator Karnes, the following amendments to the bill (Eng. H. B. 2379) were next reported by the Clerk and considered simultaneously:

On page two, section twenty-eight, lines twenty through twenty-five, by striking out subsection (b) and inserting in lieu thereof a new subsection (b), to read as follows:

(b) It is unlawful for a person to knowingly visually portray another person without that other person’s knowledge, while that other person is fully or partially nude and is in a place where a reasonable person would have an expectation of privacy. A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, shall be confined in a county or regional jail for not more than one year or fined not more than \$5,000, or both.;

And,

On page two, section twenty-eight, lines thirty through thirty-two, by striking out all of subsection (d) and inserting in lieu thereof a new subsection (d), to read as follows:

(d) Notwithstanding the provisions of subsections (b) or (c) of this section, any person who is convicted of a second or subsequent violation of subsection (b) or (c) of this section, or who violates subsection (b) or (c) of this section with the intent to cause psychological or emotional injury to another is guilty of a felony, and, upon conviction thereof, shall be fined not more than

\$10,000 or imprisoned in a state correctional facility for not less than one nor more than three years, or both fined and imprisoned.

Following discussion,

The question being on the adoption of the amendment offered by Senator Karnes to the bill (Eng. H. B. 2379), the same was put and prevailed.

There being no further amendments offered,

Having been engrossed, the bill (Eng. H. B. 2379), as just amended by Senator Karnes, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2379) passed.

On motion of Senator Karnes, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. House Bill 2379—A Bill to amend and reenact §61-8-28 of the Code of West Virginia, 1931, as amended, relating to the offense of criminal invasion of privacy, generally; creating the felony offenses of displaying or distributing a visual display of another in violation of the section with the intent to cause psychological or emotional injury to another; and establishing penalties.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 2500, Create an act for Statewide Uniformity for Auxiliary Container Regulations.

On third reading, coming up in regular order, with the unreported Government Organization committee amendment pending, and with the right having been granted on yesterday, Thursday, April 8, 2021, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, with the right to amend remaining in effect and with the unreported Judiciary committee amendment pending.

Eng. Com. Sub. for House Bill 2573, Relating generally to the transparency and accountability of state grants to reduce waste, fraud, and abuse.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2573) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2720, Creating a Merit-Based Personnel System within DOT.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woodrum, and Blair (Mr. President)—26.

The nays were: Baldwin, Beach, Caputo, Ihlenfeld, Lindsay, Romano, and Woelfel—7.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2720) passed.

The following amendment to the title of the bill, from the Committee on Transportation and Infrastructure, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2720—A Bill to repeal §17-2A-24 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §5F-2-8, all relating to establishing a merit-based personnel administration system for the agencies, authorities, boards, and commissions within the Department of Transportation; authorizing the Secretary of Transportation to establish a merit-based personnel system; providing requirements and effective date for the personnel system; preserving classified or classified-exempt status, rights and privileges thereof, and due process protections; requiring compliance with state law regarding nepotism, favoritism, discrimination, and ethics in the employment process; prohibiting actions with a negative effect on federal funding; requiring inter-agency cooperation by the Division of Personnel; authorizing rule-making; and removing duplicative special employment procedures for Division of Highways personnel.

Senator Takubo moved that the bill take effect January 1, 2022.

On this question, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woodrum, and Blair (Mr. President)—26.

The nays were: Baldwin, Beach, Caputo, Ihlenfeld, Lindsay, Romano, and Woelfel—7.

Absent: Plymale—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2720) takes effect January 1, 2022.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2794, To extend the Neighborhood Investment Program Act to July 1, 2026.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2794) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 2884, To make changes to the FOIA law to protect public utility customer databases from disclosure, with exceptions.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2884 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Clements, Grady, Hamilton, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—28.

The nays were: Beach, Caputo, Ihlenfeld, Lindsay, and Romano—5.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2884) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 2915, Relating to public records management and preservation.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Maynard, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. Com. Sub. for House Bill 2927, Adding Caregiving expenses to campaign finance expense.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2927 pass?”

On the passage of the bill, the yeas were: Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Azinger—1.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2927) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2927—A Bill to amend and reenact §3-8-1a and §3-8-9 of the Code of West Virginia, 1931, as amended, relating to campaign finance expenses; adding caregiving services as a defined term; and adding caregiving services as a lawful campaign expense.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2953, To clarify that counties can hire fire fighters as paid staff and to modify the existing procedures to include a procedure of public hearing to commission a vote.

On third reading, coming up in regular order, with the right having been granted on yesterday, Thursday, April 8, 2021, for amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Stollings, the following amendment to the bill was reported by the Clerk:

On page one, section twelve, line seven, after the word “article” by changing the period to a colon and adding the following proviso: *Provided*, That no more than twenty percent of all fees dedicated to the county fire board may be used for salaries.

Following discussion,

Senator Caputo requested a ruling from the Chair as to whether he should be excused from voting on any matter pertaining to the bill under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senator Caputo would be as a member of a class of persons and that he would be required to vote.

The question being on the adoption of the amendment offered by Senator Stollings to the bill, and on this question, Senator Stollings demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Caputo, Hamilton, Ihlenfeld, Jeffries, Lindsay, Romano, Stollings, Stover, Unger, Weld, and Woelfel—13.

The nays were: Azinger, Boley, Clements, Grady, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Woodrum, and Blair (Mr. President)—20.

Absent: Plymale—1.

So, a majority of those present and voting not having voted in the affirmative, the President declared the amendment offered by Senator Stollings to the bill rejected.

On motion of Senator Stollings, the following amendment to the bill (Eng. Com. Sub. for H. B. 2953) was next reported by the Clerk:

On page three, section twelve, line thirty-nine, after the word “amended” by changing the period to a colon and adding the following proviso: *Provided*, That prior to issuing the order, the county commission shall publish the ordinance which must contain the anticipated allocation of any fees or charges and which would be enacted should the referendum succeed as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the county in which the county fire board is located.

Following discussion,

The question being on the adoption of the amendment offered by Senator Stollings to the bill, and on this question, Senator Tarr demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the amendment offered by Senator Stollings to the bill adopted.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2953), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woodrum, and Blair (Mr. President)—23.

The nays were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Romano, Stollings, Weld, and Woelfel—10.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2953) passed.

The following amendment to the title of the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2953—A Bill to amend and reenact §7-17-3 and §7-17-12 of the Code of West Virginia, 1931, as amended, all relating to county fire protection services; clarifying that county commission may contract with fire department of any political subdivision for fire protection services; and modifying existing method for imposing fire service fees to add procedure for a ballot referendum to be used, if desired, instead of utilizing current procedure requiring 10 percent of voters to petition for imposition of such fees.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

On motion of Senator Takubo, at 1:04 p.m., the Senate recessed until 2 p.m. today.

The Senate reconvened at 2:24 p.m. today and resumed consideration of its third reading calendar, the next bill coming up in numerical sequence being

Eng. Com. Sub. for House Bill 2962, Relating generally to dental practice.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2962) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 3002, Update road abandonment process.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3002) passed.

The following amendment to the title of the bill, from the Committee on Transportation and Infrastructure, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 3002—A Bill to amend and reenact §17-2A-8 of the Code of West Virginia, 1931, as amended, relating to requiring the Commissioner of the Division of Highways to post online certain records related to the discontinuance, vacating, or closing of any road or highway or part thereof; and requiring the Division of Highways to make virtual participation available to any person interested in participating in or attending any hearing related to such discontinuance, vacating, or closing.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 3078, Relating to powers and duties of the parole board.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3078) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. House Bill 3078—A Bill to amend and reenact §62-12-13 of the Code of West Virginia, 1931, as amended, relating to the powers and duties of the parole board; providing as a new parole eligibility requirement the successful completion of certain rehabilitative and educational programs during incarceration; providing that an inmate who is unable, through no fault of the

inmate, to complete the required rehabilitative and educational programs, but who has completed all other parole eligibility requirements, may be granted parole under certain conditions; authorizing completion of specified rehabilitative and educational programs outside of a correctional institution as a special condition of a person's parole term; authorizing the Parole Board to consider whether completion of the outstanding amount of rehabilitative and educational programming would interfere with an inmate's successful reintegration into society; and requiring the Commissioner of Corrections and Rehabilitation to develop, maintain, and make publicly available a list of certain rehabilitative and educational programs outside of the correctional institution which an inmate may be required to complete as a special condition of parole, and the manner and method for an inmate to complete such programs.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 3129, Relating to the Consumer Price Index rate increase.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3129) passed.

The following amendment to the title of the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

Eng. House Bill 3129—A Bill to amend §24A-5-2a of the Code of West Virginia, 1931, as amended; relating to how the federal index rate increase percentage is calculated regarding solid waste motor carrier rate increases; requiring revised tariff showing rate increase be filed; requiring appropriate notice be provided; allowing covered carriers to correct excessive requested rates in lieu of administrative hearing; and providing when such increases become effective in each instance.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 3132, Relating to motor carrier inspectors.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3132) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 3133, Relating to motor carrier rates.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 3133 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3133) passed.

The following amendment to the title of the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

Eng. House Bill 3133—A Bill to amend and reenact §24A-2-5 of the Code of West Virginia, 1931, as amended, and to amend and reenact §24A-5-2 of said Code; all relating to correcting error in commercial motor carrier provisions of said code; restoring language to code setting forth the process to change rates for motor carriers that was inadvertently deleted and replaced; and to correct an erroneous exclusion to include the appropriate language relating to transfer of certificate of convenience and necessity.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 3177, Removing expired, outdated, inoperative and antiquated provisions and report requirements in education.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3177) passed.

The following amendment to the title of the bill, from the Committee on Education, was reported by the Clerk and adopted:

Eng. House Bill 3177—A Bill to repeal §18-2-5d, §18-2-13b, §18-2-24, §18-2-29, and §18-2-35 of the Code of West Virginia, 1931, as amended; to repeal §18-2E-4a of said code; to repeal §18-3-9b of said code; to repeal §18-4-12 of said code; to repeal §18-5-18e, and §18-5-43 of said code; to repeal §18-7A-36 of said code; to repeal §18-9A-8a of said code; to repeal §18-9B-11a of said code; to repeal §18-10H-4 of said code; to amend and reenact §18-9A-6a, §18-9A-7, and §18-9A-16 of said code; and to amend and reenact §18-9B-1, §18-9B-2, §18-9B-3, §18-9B-4, §18-9B-5, §18-9B-6, §18-9B-6a, §18-9B-7, §18-9B-8, §18-9B-9, §18-9B-10, §18-9B-12, §18-9B-13, §18-9B-14, §18-9B-15, §18-9B-17, §18-9B-18, §18-9B-19, §18-9B-20 and §18-9B-21 of said code, all relating to removing expired, outdated, inoperative and antiquated provisions and report requirements in education code; updating references; repealing expired report requirement related to productive and safe schools; repealing authorization of state board respecting use of revenues from dormitories, home or refectories; repealing outdated structure for collaboration on professional development delivery among state universities, regional education service agencies and center for professional development; repealing unused competitive grant program for selected schools and school districts; repealing unused requirement for state board rule on school uniforms for students; repealing outdated exception to mailing school report cards; repealing outdated mandated reduction in budgeted amount for personal services in certain fiscal year; repealing outdated exception for county board meeting related to fixing salaries of county superintendent; repealing expired study and report on pupils per teacher; repealing expired report requirement relating to county-wide council on productive and safe schools; repealing expired report requirement relating to joint study of retirement systems; removing reference to repealed allocation to teachers retirement fund; removing expired provisions related to additional funding bus system using bio-diesel alternative fuel; repealing expired allowance for regional education service agencies; replacing reference to state board of school finance with state superintendent; removing expired provision prohibiting salary reduction of certain persons due to passage of school finance article; correcting references to tax commissioner for functions previously transferred to state auditor; deleting outdated references to employment term and instructional term; and removing outdated provisions creating state board of school finance and requiring state superintendent to exercise powers and perform duties; repealing outdated authorization for adjustments to average daily attendance; requiring county boards of education and county superintendents to comply with the instructions of the State Board of Education and state superintendent; expanding remedies that may be used to enforce certain orders of the state superintendent when a county board of education fails or refuses to comply; expanding circumstances under which the state superintendent can withhold payment of state aid from a county board; allowing, under certain circumstances of noncompliance with state law or State Board of Education policy, the state superintendent to require certain actions during the periods of noncompliance; requiring the state superintendent to report certain actions of enforcement against county board to the State Board of Education at its next meeting; and repealing mandate for establishment of certain interdisciplinary doctoral program.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 3215, Amending the requirements to become an elected prosecutor.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3215) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 3215—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-4-1a, relating to eligibility of prosecuting attorneys; and requiring a person to be licensed as an attorney in the State of West Virginia at the time of filing for office as a candidate for the office of prosecuting attorney.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 3266, Providing for termination of extracurricular contact upon retirement.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3266) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2021.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips,

Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3266) takes effect July 1, 2021.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 3299, Authorizing Higher Education Rules.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3299) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 3301, Relating generally to property tax increment financing districts.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3301) passed.

The following amendment to the title of the bill, from the Committee on Finance, was reported by the Clerk and adopted:

Eng. House Bill 3301—A Bill to amend and reenact §7-11B-3, §7-11B-7, §7-11B-9, §7-11B-10, §7-11B-18, and §7-11B-22 of the Code of West Virginia, 1931, as amended, relating generally

to property tax increment financing districts; authorizing payment in lieu of tax agreements for property located within property tax increment financing districts; authorizing a county commission or municipality to extend the termination time of certain districts; modifying the revenue sources for a district that is extended; eliminating certain existing limitations on the terms of property tax increment financing obligations issued to refund existing obligations; and providing clarifications with respect to the base assessed value and termination date when two or more tax increment financing districts have been combined.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3301) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 3304, Authorizing the Division of Corrections and Rehabilitation to establish a Reentry and Transitional Housing Program.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Trump, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motion of Senator Trump, the following amendment to the bill was reported by the Clerk and adopted:

On page two, line nine, by inserting a period after the word “direct” and striking the remainder of the sentence.

Having been engrossed, the bill (Eng. H. B. 3304), as amended on yesterday, Thursday, April 8, 2021, and as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 3304 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3304) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. House Bill 3304—A Bill to amend the Code of West Virginia 1931 as amended, by adding thereto a new article, designated §15A-4A-1, 15A-4A-2, 15A-4A-3, 15A-4A-4, 15A-4A-5, 15A-4A-6 and 15A-4A-7, all relating generally to creating an expanded required work release pilot project within the Division of Corrections and Rehabilitation; stating the purposes of the article, setting forth findings; limiting programs to no more than five locations; defining terms; establishing eligibility and ineligibility criteria; directing the commissioner to establish policies and procedures; and providing for the return offenders who do not successfully complete work release to other facilities.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 3308, Relating to increasing number of limited video lottery terminals.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Caputo, Clements, Hamilton, Ihlenfeld, Maroney, Nelson, Phillips, Romano, Rucker, Stollings, Stover, Swope, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—18.

The nays were: Azinger, Baldwin, Beach, Boley, Grady, Jeffries, Karnes, Lindsay, Martin, Maynard, Roberts, Smith, Sypolt, Unger, and Woelfel—15.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3308) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 3311, Relating to the cost of medical records.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3311) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

On motion of Senator Takubo, at 3:09 p.m., the Senate recessed until 4 p.m. today.

The Senate reconvened at 4:20 p.m. today and, at the request of Senator Takubo, unanimous consent being granted, returned to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 9th day of April, 2021, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

(H. B. 3292), Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Dean Jeffries,
Chair, House Committee.

Senator Blair (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

Senate Concurrent Resolution 41, Requesting study on legal process for collection and enforcement of delinquent taxes and lands.

Senate Concurrent Resolution 49, Requesting study on development and expansion of municipal recycling programs.

Senate Concurrent Resolution 57, Requesting study on electronic database publication of legal notices in lieu of newspaper publication.

Senate Concurrent Resolution 60, Requesting study on program for suicide prevention for veterans and active-duty members of armed forces, National Guard, and reserves.

Senate Concurrent Resolution 66, Requesting study on existing and potential income sources for State Road Fund.

Senate Concurrent Resolution 67, Requesting study on criteria for honorary infrastructure naming resolutions.

Senate Concurrent Resolution 68, Requesting study on paid family leave for state and county boards of education employees.

Senate Concurrent Resolution 69, Requesting study on plan to promote adventure travel throughout WV.

Senate Concurrent Resolution 70, Requesting study on population of children experiencing homelessness and services provided.

Senate Concurrent Resolution 72, Requesting study on summer and non-school-day food programs by county boards of education.

Senate Concurrent Resolution 74, Requesting study on reducing criminal activity and increasing online marketplace transparency.

And,

Senate Concurrent Resolution 75, Requesting study on coinciding elections of political subdivisions with statewide and federal elections.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Craig Blair,
Chair ex officio.

At the request of Senator Takubo, unanimous consent being granted, the resolutions (S. C. R. 41, 49, 57, 60, 66, 67, 68, 69, 70, 72, 74, and 75) contained in the preceding report from the Committee on Rules were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions, the same was put and prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Senator Blair (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

Com. Sub. for House Concurrent Resolution 55, Studying the viability of creating a veterinary school in West Virginia.

Com. Sub. for House Concurrent Resolution 84, Requesting the Joint Committee on Government and Finance to study the declining population of military service veterans in West Virginia.

House Concurrent Resolution 86, Study the recruitment and retention of Health Care Workers in West Virginia.

House Concurrent Resolution 98, For West Virginias Public Employee Insurance Agency (PEIA) Finance Board to examine how they can enhance reimbursement rates to providers.

House Concurrent Resolution 100, Requesting study on how Local Health Departments are funded and supported.

And,

House Concurrent Resolution 101, Requesting a study of the state's laboratory needs and the utilization of private laboratories.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Craig Blair,
Chair ex officio.

At the request of Senator Takubo, unanimous consent being granted, the resolutions (Com. Sub. for H. C. R. 55 and 84, and H. C. R. 86, 98, 100, and 101) contained in the preceding report from the Committee on Rules were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions, the same was put and prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

The Senate again proceeded to the eighth order of business, the next resolution coming up in numerical sequence being

Eng. Com. Sub. for House Joint Resolution 1, Education Accountability Amendment.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on Wednesday, April 7, 2021, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the resolution was laid over one day, retaining its place on the calendar, with the right to amend remaining in effect and with the unreported Judiciary committee amendment pending.

Eng. House Joint Resolution 2, Providing that courts have no authority or jurisdiction to intercede or intervene in, or interfere with, any impeachment proceedings of the House of Delegates or the Senate.

On third reading, coming up in regular order, with the right having been granted on Wednesday, April 7, 2021, for amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Romano, the following amendments to the resolution were reported by the Clerk and considered simultaneously:

On page two, section nine, line two, after the word "with," by inserting the words "the procedures established for";

And,

On page two, section nine, line four, after the word “state” by deleting the period and inserting the words “relating to the procedures established and used during the proceedings.”

Following discussion,

The question being on the adoption of Senator Romano’s amendments to the resolution (Eng. H. J. R. 2), and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, and Woelfel—11.

The nays were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—23.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Romano’s amendments to the resolution rejected.

There being no further amendments offered,

Having been engrossed, the resolution (Eng. H. J. R. 2) was then read a third time and put upon its adoption.

(Senator Weld in the Chair.)

Pending discussion,

(Senator Blair, Mr. President, in the Chair.)

Pending discussion,

The question being “Shall Engrossed House Joint Resolution 2 be adopted?”

On the adoption of the resolution, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—23.

The nays were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, and Woelfel—11.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the resolution (Eng. H. J. R. 2) adopted with its title, as follows:

Eng. House Joint Resolution 2—Proposing an amendment to the Constitution of the State of West Virginia, amending section nine, article IV thereof, relating to the impeachment of officials; providing that courts have no authority or jurisdiction to intercede or intervene in, or interfere with, any impeachment proceedings of the House of Delegates or the Senate; specifying that a judgment rendered by the Senate following an impeachment trial is not reviewable by any court

of this state; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year 2022, which proposed amendment is that section nine, article IV thereof, be amended to read as follows:

ARTICLE IV.

§9. Impeachment of officials.

Any officer of the state may be impeached for maladministration, corruption, incompetency, gross immorality, neglect of duty, or any high crime or misdemeanor. The House of Delegates ~~shall have~~ has the sole power of impeachment. The Senate ~~shall have~~ has the sole power to try impeachments and no person shall be convicted without the concurrence of two thirds of the members elected thereto. When sitting as a court of impeachment, the ~~President~~ Chief Justice of the Supreme Court of Appeals, or, if from any cause it be improper for him or her to act, then any other judge of that court, to be designated by it, shall preside; and the senators shall be on oath or affirmation, to do justice according to law and evidence. Judgment in cases of impeachment ~~shall~~ does not extend further than to removal from office, and disqualification to hold any office of honor, trust or profit, under the state; but the party convicted ~~shall be~~ remains liable to indictment, trial, judgment, and punishment according to law. The Senate may sit during the recess of the Legislature for the trial of impeachments. No court of this state has any authority or jurisdiction, by writ or otherwise, to intercede or intervene in, or interfere with, any impeachment proceedings of the House of Delegates or the Senate conducted hereunder; nor is any judgment rendered by the Senate following a trial of impeachment reviewable by any court of this state.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such amendment is hereby numbered "Amendment No. 1" and designated as the "Clarification of the Judiciary's Role in Impeachment Proceedings Amendment" and the purpose of the proposed amendment is summarized as follows: "Clarifying that courts have no authority or jurisdiction to intercede or intervene in or interfere with impeachment proceedings of the House of Delegates or the Senate; and specifying that a judgment rendered by the Senate following an impeachment trial is not reviewable by any court of this state."

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Joint Resolution 3, Property Tax Modernization Amendment.

On third reading, coming up in regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Thursday, April 8, 2021, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the resolution was laid over one day, retaining its place on the calendar, with the right to amend remaining in effect and with the unreported committee amendments pending.

The Senate proceeded to the ninth order of business.

Eng. Com. Sub. for House Bill 2025, Provide liquor, wine, and beer licensees with some new concepts developed during the State of Emergency utilizing new technology to provide greater freedom to operate in a safe and responsible manner.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3ss. County option election on forbidding nonintoxicating beer, wine, or alcoholic liquors to be sold, given, or dispensed after ~~10:00~~ 6:00 a.m. on Sundays.

~~Beginning July 1, 2019, the~~ The county commission of any county may conduct a county option election on the question of whether the sale or dispensing of nonintoxicating beer, wine, or alcoholic liquors in or on a licensed premises shall be allowed in the county beginning 1:00 p.m. on any Sunday, as provided in §11-16-18, ~~of this code, §60-7-12, of this code, and §60-8-34 of this code,~~ upon approval as provided in this section. The option election on this question may be placed on the ballot in each county at any primary or general election. The county commission of the county shall give notice to the public of the election by publication of the notice as a Class II-0 legal advertisement in compliance with the provisions of ~~§60-59-3~~ §59-3-1 et seq. of this code, and the publication area for publication shall be the county in which the election is to be held. The date of the last publication of the notice shall fall on a date within the period of the 14 consecutive days next preceding the election. On the local option election ballot shall be printed the following: "Shall the beginning hour at which nonintoxicating beer, wine, and alcoholic liquor be sold or dispensed for licensed on-premises ~~only~~ in _____ County on Sundays be changed from ~~10:00~~ 6:00 a.m. to 1:00 p.m."

If approved by the voters this would forbid private clubs and restaurants licensed to sell and dispense nonintoxicating beer, wine, and alcoholic liquor; licensed private wine restaurants, private wine spas, and private wine bed and breakfasts to sell and dispense wine; and licensed Class A retail dealers to sell and dispense nonintoxicating beer for on-premises consumption until 1:00 p.m.

Yes No

(Place a cross mark in the square opposite your choice.)

The ballots shall be counted, returns made and canvassed as in general elections, and the results certified by the commissioners of election to the county commission. The county commission shall, without delay, certify the result of the election. Upon receipt of the results of the election, in the event a majority of the votes are marked "Yes", all applicable licensees shall be forbidden to sell and dispense beer, wine, or alcoholic liquors until 1:00 p.m. on Sundays. In

the event a majority of the votes are marked "No", all applicable licensees will continue to be required to comply with existing law.

CHAPTER 11. TAXATION.

ARTICLE 16. NONINTOXICATING BEER.

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

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

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

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

(d) Sale Requirements. -

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

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

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

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

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

(e) Delivery Requirements. -

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Retail Transportation Permit. -

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

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

(h) Enforcement. -

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

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

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

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

§11-16-6e. License required for sale and shipment of nonintoxicating beer or nonintoxicating craft beer by a brewer or resident brewer; shipment of limited quantities of nonintoxicating beer or nonintoxicating craft beer; requirements; license fee; and penalties.

(a) Authorization. - Notwithstanding the provisions of this article or any other law to the contrary, any person that is currently licensed and in good standing in its domicile state as a brewer, resident brewer, other nonintoxicating beer or nonintoxicating craft beer manufacturer, and who also obtains a nonintoxicating beer or nonintoxicating craft beer direct shipper's license from the commissioner, as provided in this article, may sell and ship nonintoxicating beer or nonintoxicating craft beer brewed by the brewer, resident brewer, other nonintoxicating beer or nonintoxicating craft beer manufacturer by mail to a purchasing person who is 21 years of age or older, for personal use, and not for resale. A nonintoxicating beer or nonintoxicating craft beer direct shipper may ship nonintoxicating beer or nonintoxicating craft beer via mail to a purchasing person who is 21 years of age or older who purchases nonintoxicating beer or nonintoxicating craft beer, subject to the requirements of this article, in and throughout West Virginia. A nonintoxicating beer or nonintoxicating craft beer direct shipper may sell and ship nonintoxicating beer or nonintoxicating craft beer out of this state via mail to a purchasing person who is 21 years of age or older subject to the recipient state's or country's requirements, laws, and international laws.

(b) License requirements. – Before sending any shipment of nonintoxicating beer or nonintoxicating craft beer to a purchasing person who is 21 years of age or older, the nonintoxicating beer or nonintoxicating craft beer direct shipper must first:

(1) File a license application with the commissioner with the appropriate background check information, using forms required by the commissioner. Criminal background checks will not be required of applicants licensed in their state of domicile who can provide a certificate of good standing from their state of domicile;

(2) Pay to the commissioner the \$250 non-prorated and nonrefundable annual license fee to ship and sell only nonintoxicating beer or nonintoxicating craft beer;

(3) Obtain a business registration number from the Tax Commissioner;

(4) Register with the office of the Secretary of State;

(5) Provide the commissioner a true copy of its current active license issued in the state of domicile, proving that the nonintoxicating beer or nonintoxicating craft beer direct shipper is licensed in its state of domicile as a brewer, resident brewer, or other nonintoxicating beer or nonintoxicating craft beer manufacturer;

(6) Obtain from the commissioner a nonintoxicating beer or nonintoxicating craft beer direct shipper's license;

(7) Submit to the commissioner a list of all brands and labels of nonintoxicating beer or nonintoxicating craft beer to be shipped to West Virginia and attest that all nonintoxicating beer or nonintoxicating craft beer brands and labels are manufactured by the brewer, resident brewer or other nonintoxicating beer or nonintoxicating craft beer manufacturer seeking licensure and are not counterfeit or adulterated nonintoxicating beer or nonintoxicating craft beer;

(8) Attest that the brewer, resident, brewer or other nonintoxicating beer or nonintoxicating craft beer manufacturer brews less than 25,000 barrels of beer per calendar year and provide documentary evidence along with the attestation.

(9) Meet all other licensing requirements of this chapter and provide any other information that the commissioner may reasonably require.

(c) *Shipping Requirements.* - All nonintoxicating beer or nonintoxicating craft beer direct shipper licensees shall:

(1) Not ship more than a maximum of two, 24 bottle or can, cases of nonintoxicating beer or nonintoxicating craft beer based on a 12 fluid ounce bottle or can, however no combination of bottles or cans may exceed a total for the two cases of 576 fluid ounces of nonintoxicating beer residing in West Virginia, for such person's personal use and consumption, and not for resale.

(2) Not ship to any licensed brewers, resident brewers, retailers, retail liquor outlets, any type of private club, private caterers, private wine restaurants, private wine spas, private wine bed and breakfasts, wine retailers, wine specialty shops, taverns, or other licensees licensed under this article or chapter 60 of this code;

(3) Ensure that all containers of nonintoxicating beer or nonintoxicating craft beer shipped directly to a purchasing person who is 21 years of age or older are clearly and conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON 21 OR OLDER REQUIRED FOR DELIVERY";

(4) Not ship nonintoxicating beer or nonintoxicating craft beer that has not been registered with the commissioner, register and pay any registration fees, and prove by documentation that the direct shipper has the rights from the manufacturer to ship the nonintoxicating beer or nonintoxicating craft beer;

(6) Not ship to:

(A) Any person under the age of 21;

(B) to an intoxicated person; or

(C) to a person physically incapacitated due to the consumption of nonintoxicating beer or nonintoxicating craft beer, wine, or liquor, or the use of drugs;

(7) Obtain a written or electronic signature upon delivery to a person who the nonintoxicating beer or nonintoxicating craft beer direct shipper's carrier verifies in-person is at least 21 years of age or older, and if the carrier is not able to verify the age of the person and obtain that person's

signature, then the carrier may not complete the delivery of the nonintoxicating beer or nonintoxicating craft beer shipment;

(8) Utilize a licensed and bonded shipping carrier who has obtained a transportation permit as specified in §60-6-12 of the code;

(9) First deliver any nonintoxicating beer or nonintoxicating craft beer shipment being shipped in and throughout West Virginia to the nonintoxicating beer or nonintoxicating craft beer brand's nearest appointed distributor who has the nonintoxicating beer or nonintoxicating craft beer brand's franchise territory located in the purchasing person's county of residence in West Virginia: *Provided*, That, if no distributor has been appointed for the nonintoxicating beer or nonintoxicating craft beer brand, then the brewer of the brand shall appoint a franchise distributor in the franchise territory where the purchasing person of the nonintoxicating beer or nonintoxicating craft beer resides;

(10) Have the appointed distributor complete any nonintoxicating beer or nonintoxicating craft beer shipment order with an in-person pickup, at the location of appointed distributor's distributorship, to the purchasing person subject to age and identity verification by the appointed distributor; *Provided*, That, the appointed distributor is not a retailer, and therefore cannot charge an additional fee for the in-person pickup for the nonintoxicating beer or nonintoxicating craft beer shipment as this would be considered a part of the service provided under the appointed distributor's franchise agreement.

(d) *Payment of Fees and Taxes.*

(1) Any nonintoxicating beer or nonintoxicating craft beer direct shipper licensee must meet the markup requirements for retail sales set forth in §47-11A-6 of the code.

(2) Further, the nonintoxicating beer or nonintoxicating craft beer direct shipper licensee shall collect and remit all beer barrel tax, state sales tax, and local sales tax on the sale of nonintoxicating beer or nonintoxicating craft beer to the Tax Commissioner at the close of each month and file a monthly return, on a form provided by the Tax Commissioner, reflecting the taxes paid for all sales and shipments to persons residing in West Virginia. No nonintoxicating beer or nonintoxicating craft beer direct shipper shall pay any beer barrel or sales tax more than once.

(3) File monthly returns to the commissioner showing the total of nonintoxicating beer or nonintoxicating craft beer, by type, brand, sold, and shipped into West Virginia for the preceding month;

(4) Permit the Tax Commissioner or commissioner or their designees to perform an audit of the nonintoxicating beer or nonintoxicating craft beer direct shipper's records upon request;

(5) The payment of fees to the commissioner and taxes to the Tax Commissioner may be in addition to fees and taxes levied by the nonintoxicating beer or nonintoxicating craft beer direct shipper's domicile state.

(6) No nonintoxicating beer or nonintoxicating craft beer direct shipper will be required to pay any fees to the commissioner or taxes to the Tax Commissioner more than once.

(e) *Jurisdiction.* - By obtaining a nonintoxicating beer or nonintoxicating craft beer direct shipper licensee the licensee shall be considered to have agreed and consented to the jurisdiction

of the commissioner or any other state agency, which is Charleston, West Virginia and the Kanawha County circuit court, concerning enforcement of this chapter and any other related laws or rules.

(f) *Records and reports.* –

(1) Licensed nonintoxicating beer or nonintoxicating craft beer direct shippers must maintain accurate records of all shipments sent to West Virginia.

(2) Provide proof or records to the commissioner, upon request, that all direct shipments of liquor were purchased and delivered to a purchasing person who is 21 years of age or older.

(g) The nonintoxicating beer or nonintoxicating craft beer direct shipper may annually renew its license with the commissioner by application, paying the nonintoxicating beer or nonintoxicating craft beer direct shipper license fee and providing the commissioner with a true copy of a current brewer, resident brewer, or other nonintoxicating beer or nonintoxicating craft beer manufacturer's license from the nonintoxicating beer or nonintoxicating craft beer direct shipper's domicile state.

(h) The commissioner may promulgate rules to effectuate the purposes of this law.

(i) *Penalties.* –

(1) The commissioner may enforce the requirements of this chapter by administrative proceedings as set forth in §11-16-23 and §11-16-24 of this code to suspend or revoke a nonintoxicating beer or nonintoxicating craft beer direct shipper's license, and the commissioner may accept payment of a penalties as set forth in §11-16-23 and §11-16-24 of this code or an offer in compromise in lieu of suspension, at the commissioner's discretion. Hearings and appeals on such notices may be had in the same manner as in the case of revocations of licenses set forth in §11-16-23 and §11-16-24a of this code.

(2) If any such violates the provisions of this article, the commissioner may determine to suspend the privileges of the brewer, resident brewer, or other nonintoxicating beer or nonintoxicating craft beer manufacturer to sell, ship, or deliver nonintoxicating beer or nonintoxicating craft beer to a purchasing person who is 21 years of age or older or to the commissioner, or otherwise engage in the liquor business in this state for a period of one year from the date a notice is mailed to such person by the commissioner of the fact that such person has violated the provisions of this article. During such one-year period, it shall be unlawful for any person within this state to buy or receive nonintoxicating beer or nonintoxicating craft beer from such person or to have any dealings with such person with respect thereto.

(k) *Criminal Penalties.* – A shipment of nonintoxicating beer or nonintoxicating craft beer directly to citizens in West Virginia from persons who do not possess a valid nonintoxicating beer or nonintoxicating craft beer direct shipper's license is prohibited. Any person who knowingly makes, participates in, transports, imports, or receives such an unlicensed and unauthorized direct shipment of nonintoxicating beer or nonintoxicating craft beer is guilty of a felony and, shall, upon conviction thereof, be fined in an amount not to exceed \$10,000 per violation or shall be imprisoned in jail for a period not to exceed 72 hours. Without limitation on any punishment or remedy, criminal or civil, any person who knowingly makes, participates in, transports, imports, or receives such a direct shipment constitutes an act that is an unfair trade practice.

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

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

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

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

(d) Sale Requirements. -

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

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

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

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

(5) A third party delivery licensee shall not have a pecuniary interest in a Class B retail dealer, as set forth in this article. A third party delivery licensee may only charge a convenience fee for the delivery of any nonintoxicating beer or nonintoxicating craft beer. The third party licensee may not collect a percentage of the delivery order for the delivery of nonintoxicating beer or nonintoxicating craft beer, but may continue to collect a percentage of the delivery order directly related to food. The convenience fee charged by the third party delivery licensee to the purchasing person may not be greater than five dollars per delivery order. For any third party licensee also licensed for wine delivery as set forth in §60-8-6f of the code, the total convenience fee for any order, sale, and delivery of sealed wine may not exceed five dollars.

(e) Delivery Requirements. -

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Retail Transportation Permit. -

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

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

(h) Enforcement. -

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

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

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

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

§11-16-9. Amount of license tax; Class A and Class B retail dealers; purchase and sale of nonintoxicating beer permitted; distributors; brewers; brewpubs.

(a) All retail dealers, distributors, brewpubs, brewers, and resident brewers of nonintoxicating beer and of nonintoxicating craft beer shall pay an annual fee to maintain an active license as required by this article. The license period begins on July 1 of each year and ends on June 30 of the following year. If the license is granted for a shorter period, then the license fee shall be

computed semiannually in proportion to the remainder of the fiscal year: *Provided*, That if a licensee fails to complete a renewal application and make payment of its annual license fee in renewing its license on or before June 30 of any subsequent year, ~~after initial application~~, then an additional \$150 reactivation fee shall be charged and paid by the licensee; the fee may not be prorated or refunded, prior to the processing of any renewal application and applicable full year annual license fee; and furthermore a licensee who continues to operate ~~upon~~ after the expiration of its license is subject to all fines, penalties, and sanctions available in §11-16-23 of this code, all as determined by the commissioner.

(b) The annual license fees are as follows:

(1) Retail dealers shall be divided into two classes: Class A and Class B.

(A) For a Class A retail dealer, the license fee is \$150 for each place of business; the license fee for social, fraternal, or private clubs not operating for profit, and ~~having~~ which have been in continuous operation for two years or more immediately preceding the date of application, is \$150: *Provided*, That railroads operating in this state may dispense nonintoxicating beer upon payment of an annual license tax of \$10 for each dining, club, or buffet car in which the beer is dispensed.

Class A licenses issued for railroad dining, club, or buffet cars authorize the licensee to sell nonintoxicating beer at retail for consumption only on the licensed premises where sold. All other Class A licenses authorize the licensee to licensees may sell nonintoxicating beer or nonintoxicating craft beer at retail, as licensed, for consumption on the licensed premises or off the licensed premises. Class A licensees may sell nonintoxicating beer or nonintoxicating craft beer for consumption off the licensed premises when it is in a sealed original container and sold for personal use, and not for resale. Class A licensees shall provide prepared food or meals along with sealed nonintoxicating beer or nonintoxicating craft beer in the original container or in a sealed growler as set forth for sales and service in §11-16-6d of this code, to a purchasing person who is in-person or in-vehicle picking up prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer orders-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.

(B) For a Class B retail dealer, the license fee, authorizing the sale of both chilled and unchilled beer, is \$150 for each place of business. A Class B license authorizes the licensee to sell nonintoxicating beer at retail in bottles, cans, or other sealed containers only, and only for consumption off the licensed premises. A Class B retailer may sell to a ~~patron~~ purchasing person, for personal use, and not for resale, quantities of draught beer in original containers that are no larger in size than one-half barrel for off-premises consumption.

The Commissioner may only issue a A Class B license may be issued only to the proprietor or owner of a grocery store. For the purpose of this article, the term "grocery store" means any retail establishment commonly known as a grocery store or delicatessen, and caterer or party supply store, where food or food products are sold for consumption off the premises, and includes a separate and segregated portion of any other retail store which is dedicated solely to the sale of food, food products, and supplies for the table for consumption off the premises. Caterers or party supply stores are required to shall purchase the appropriate licenses from the Alcohol Beverage Control Administration.

(C) A Class A retail dealer may contract, purchase, or develop a mobile ordering application or web-based software program to permit the ordering and purchase of nonintoxicating beer or

nonintoxicating craft beer, as authorized by the licensee's license. The nonintoxicating beer or nonintoxicating craft beer shall be in a sealed original container or a sealed growler and meet the requirements of §11-16-6d of this code.

(2) For a distributor, the license fee is \$1,000 for each place of business.

(3) For a brewer or a resident brewer with its principal place of business or manufacture located in this state and who produces:

(A) Twelve thousand five hundred barrels or less of nonintoxicating beer or nonintoxicating craft beer, the license fee is \$500 for each place of manufacture;

(B) Twelve thousand five hundred one barrels and up to 25,000 barrels of nonintoxicating beer or nonintoxicating craft beer, the license fee is \$1,000 for each place of manufacture;

(C) More than 25,001 barrels of nonintoxicating beer or nonintoxicating craft beer, the license fee is \$1,500 for each place of manufacture.

(4) For a brewer whose principal place of business or manufacture is not located in this state, the license fee is \$1,500. The brewer is exempt from the requirements set out in subsections (c), (d), and (e) of this section: *Provided*, That a brewer whose principal place of business or manufacture is not located in this state that produces less than 25,000 barrels of nonintoxicating beer or nonintoxicating craft beer may choose to apply, in writing, to the commissioner to be subject to the variable license fees of subdivision (3), subsection (b) of this section and the requirements set out in subsections (c), (d), and (e) of this section subject to investigation and approval by the commissioner as to brewer requirements.

(5) For a brewpub, the license fee is \$500 for each place of manufacture.

(c) As part of the application or renewal application and in order to determine a brewer or resident brewer's license fee pursuant to this section, a brewer or resident brewer shall provide the commissioner, on a form provided by the commissioner, with an estimate of the number of nonintoxicating beer or nonintoxicating craft beer barrels and gallons it ~~will~~ may produce during the year based upon the production capacity of the brewer's or resident brewer's manufacturing facilities and the prior year's production and sales volume of nonintoxicating beer or nonintoxicating craft beer.

(d) On or before July 15 of each year, every brewer, or resident brewer who is granted a license shall file a final report, on a form provided by the commissioner, that is dated as of June 30 of ~~each~~ that year, stating the actual volume of nonintoxicating beer or nonintoxicating craft beer in barrels and gallons produced at its principal place of business and manufacture during the prior year.

(e) If the actual total production of nonintoxicating beer or nonintoxicating craft beer by the brewer or resident brewer exceeded the brewer's or resident brewer's estimate that was filed with the application or renewal application for a brewer's or resident brewer's license for that period, then the brewer or resident brewer shall include a remittance for the balance of the license fee pursuant to this section that would be required for the final, higher level of production.

(f) Any brewer or resident brewer failing to file the reports required in subsections (c) and (d) of this section, and who is not exempt from the reporting requirements, shall, at the discretion of the commissioner, be subject to the penalties set forth in §11-16-23 of this code.

(g) Notwithstanding subsections (a) and (b) of this section, the license fee per event for a nonintoxicating beer floor plan extension is ~~\$50~~ \$400, and the fee may not be prorated or refunded., ~~and must be accompanied with a license~~ A licensee shall submit an application, certification that the event meets certain requirements in the this code and rules, and such any other information as required by the commissioner may reasonably require, at least 15 days prior to the event, all as determined by the commissioner.

(h) Notwithstanding subsections (a) and (b) of this section, a Class A retail dealer, in good standing with the commissioner, may apply, on a form provided by the commissioner, to sell, serve, and furnish nonintoxicating beer or nonintoxicating craft beer for on-premises consumption in an outdoor dining area or outdoor street dining area, as authorized by any municipality or county commission and any state or county health department. The Class A retail dealer shall submit to the municipal council, county commission, or any state or county health department, for approval, a revised floorplan and a request to sell and serve nonintoxicating beer or nonintoxicating craft beer, subject to the commissioner's requirements, in an approved outdoor area. The area shall be adjacent to the licensee's licensed premises for nonintoxicating beer or nonintoxicating craft beer outdoor dining under the licensee's control with ingress and egress. For private outdoor street dining, or 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 with right of ingress and egress. For purposes of this section, "close proximity" means an available area within 150 feet of the Class A retail dealer's licensed premises. A Class A retail dealer may operate a nonintoxicating beer or nonintoxicating craft beer outdoor dining or outdoor street dining in conjunction with a private outdoor dining or private outdoor street dining area set forth in §60-7-8d of this code and private wine outdoor dining or private wine outdoor street dining set forth in §60-8-32a of this code.

(i) For purposes of this article, "nonintoxicating beer or nonintoxicating craft beer outdoor dining and nonintoxicating beer or nonintoxicating craft beer outdoor street dining" includes 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.

§11-16-11c. Unlicensed brewer or unlicensed home brewer temporary license; fees; requirements.

(a) An unlicensed brewer or home brewer may obtain a temporary special license, upon meeting the requirements set forth in this section, to offer its nonintoxicating beer or nonintoxicating craft beer for sampling and sales at a fair and festival licensed under §11-16-11 and §11-16-11b of this code, when granted approval by the fair and festival licensee. The

unlicensed brewer or home brewer is exempt from the requirements of registering the brand and using a distributor and a franchise agreement due to the limited nature of this temporary license.

(b) An unlicensed brewer or home brewer is subject to the limits, taxes, fees, requirements, restrictions, and penalties set forth in this article: *Provided*, That the commissioner may, by rule or order, provide for certain waivers or exceptions with respect to the provisions, laws, rules, or orders as required by the circumstances of each festival or fair. The commissioner may revoke or suspend any license issued pursuant to this section prior to any notice or hearing, notwithstanding the provisions §11-16-23 and §11-16-24 of this code: *Provided, however*, That under no circumstances shall the provisions of §11-16-8(a)(1), §11-16-8(a)(2), and §11-16-8(a)(3) of this code, be waived nor shall any exception be granted with respect to those provisions.

(c) A brewer or home brewer, regardless of its designation in its domicile state, that is duly licensed and in good standing in its domicile state, but unlicensed in this state, or an unlicensed brewer or home brewer that is a resident of West Virginia, shall pay a \$150 nonrefundable and non-prorated fee and submit an application for a temporary license on a one-day basis. The temporary special license allows the unlicensed brewer or home brewer to sell nonintoxicating beer or nonintoxicating craft beer to a licensed fair or festival for the sampling and sale of the nonintoxicating beer or nonintoxicating craft beer for on-premises consumption at the licensed fair or festival. The brewer or home brewer shall pay all taxes due and the appropriate markup on the nonintoxicating beer or nonintoxicating craft beer.

(2) The unlicensed brewer or home brewer temporary license application shall include, but is not limited to, the person or entity's name, address, taxpayer identification number, and location; if the unlicensed brewer or home brewer is from out of state, a copy of its licensure in its domicile state; a signed and notarized verification that it produces 25,000 barrels or less of nonintoxicating beer or nonintoxicating craft beer per year; a signed and notarized verification that it is in good standing with its domicile state; copies of its federal certificate of label approvals and a certified lab alcohol analysis for the nonintoxicating beer or nonintoxicating craft beer it plans to sell to a fair or festival licensed under §11-16-11 and §11-16-11b of this code; and any other information required by the commissioner.

(3) The applicant shall include in its application a list of all nonintoxicating beers or nonintoxicating craft beers it proposes to provide, in sealed containers, to a licensed fair or festival for sampling or sale so that the commissioner may review them in the interest of public health and safety. Once approved, the submitted nonintoxicating beer or nonintoxicating craft beer list creates a temporary nonintoxicating beer or nonintoxicating craft beer brand registration for up to two days at any event licensed under §11-16-11 and §11-16-11b of this code, for no additional fee.

(4) An applicant that receives this temporary license for any event licensed under §11-16-11 and §11-16-11b of this code shall provide a signed and notarized agreement acknowledging that it is the applicant's duty to pay all municipal, local, and sales taxes applicable to the sale of nonintoxicating beer or nonintoxicating craft beer in West Virginia.

(5) The unlicensed brewer or home brewer shall submit an application for each temporary special license sought for an event licensed under §11-16-11 and §11-16-11b of this code, at which the applicant proposes to provide nonintoxicating beer or nonintoxicating craft beer for sampling or sale. The license fee covers up to two separate one-day licenses for the event before an additional fee is required. Any applicant desiring to attend more than four events per year or

otherwise operate in West Virginia shall seek appropriate licensure as a brewery or resident brewery in this state.

(6) Notwithstanding the provisions of this article and requirements for licensure, brand registration, franchise requirements, payment of beer barrel tax, and the appointment of a distributor franchise network, this temporary special license for an event licensed under §11-16-11 and §11-16-11b of this code, once granted, permits the licensee to operate in this limited capacity only at the approved specific, events licensed under §11-16-11 and §11-16-11b of this code, subject to the limitations noted in this section.

(7) The applicant shall also apply for and receive a nonintoxicating beer or nonintoxicating craft beer transportation permit in order to legally transport nonintoxicating beer or nonintoxicating craft beer in the state as required by §11-16-10(f) of this code: *Provided*, That the commissioner may not charge or collect an additional fee for a nonintoxicating beer or nonintoxicating craft beer transportation permit to an applicant seeking a temporary special license under this section.

(8) The licensee is subject to all applicable violations and/or penalties under this article and related legislative rules that are not otherwise excepted by this section: *Provided*, That the commissioner may by rule or order provide for certain waivers or exceptions with respect to the provisions of this code, rules, or orders required by the circumstances of each festival or fair. The commissioner may revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding the provisions of §11-16-23 and §11-16-24 of this code: *Provided, however*, That under no circumstances shall the provisions of §11-16-8(a)(1), §11-16-8(a)(2), and §11-16-8(a)(3) of this code, be waived nor shall any exception be granted with respect to those provisions.

§11-16-18. Unlawful acts of licensees; criminal penalties.

(a) It is unlawful:

(1) Except as provided for in §7-1-3ss and this chapter of this code, for any licensee, his, her, its, or their servants, agents, or employees to sell, give, or dispense, or any individual to drink or consume, in or on any licensed premises or in any rooms directly connected thereto, nonintoxicating beer or cooler on weekdays between the hours of 2:00 a.m. and 7:00 6:00 a.m., or between the hours of 2:00 a.m. and 10:00 a.m., or a Class A retail dealer to sell nonintoxicating beer for on-premises consumption only between the hours of 2:00 a.m. and 4:00 p.m. 6:00 a.m.; in any county upon approval as provided for in §7-1-3ss of this code, on any Sunday, except in private clubs licensed under the provisions of §60-7-1 et seq. of this code, where the hours shall conform with the hours of sale of alcoholic liquors;

(2) For any licensee, his, her, its, or their servants, agents, or employees to sell, furnish, or give any nonintoxicating beer, as defined in this article, to any person visibly or noticeably intoxicated or to any person known to be insane or known to be a habitual drunkard;

(3) For any licensee, his, her, its, or their servants, agents, or employees to sell, furnish, or give any nonintoxicating beer as defined in this article to any person who is less than 21 years of age;

(4) For any distributor to sell or offer to sell, or any retailer to purchase or receive, any nonintoxicating beer as defined in this article, except for cash and a right of action shall not exist to collect any claims for credit extended contrary to the provisions of this subdivision. Nothing

~~herein~~ contained in this section prohibits a licensee from crediting to a purchasing person the actual price charged for packages or containers returned by the original purchasing person as a credit on any sale, or from refunding to any purchasing person the amount paid or deposited for the containers when title is retained by the vendor: *Provided*, That a distributor may accept an electronic transfer of funds if the transfer of funds is initiated by an irrevocable payment order on the invoiced amount for the nonintoxicating beer. The cost of the electronic fund transfer shall be borne by the retailer and the distributor shall initiate the transfer no later than noon of one business day after the delivery;

(5) For any brewer or distributor to give, furnish, rent, or sell any equipment, fixtures, signs, supplies, or services directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail or to offer any prize, premium, gift, or other similar inducement, except advertising matter, including indoor electronic or mechanical signs, of nominal value up to \$25.00 per stock keeping unit, to either trade or consumer buyers: *Provided*, That a distributor may offer, for sale or rent, tanks of carbonic gas: *Provided, however*, That, in the interest of public health and safety, a distributor may, independently or through a subsidiary or affiliate, furnish, sell, install, or maintain draught line equipment, supplies, and cleaning services to a licensed retailer so long as the furnishing or sale of draught line services may be negotiated at no less than ~~direct~~ actual cost: *Provided further*, That a distributor may furnish, rent, or sell equipment, fixtures, signs, services, or supplies directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail under the conditions and within the limitations as prescribed ~~herein~~ in this section. Nothing contained in this section prohibits a brewer from sponsoring any professional or amateur athletic event or from providing prizes or awards for participants and winners in any events.

(6) For any brewer or distributor to sponsor any professional or amateur athletic event or provide prizes or awards for participants and winners when a majority of the athletes participating in the event are minors, unless the event is specifically authorized by the commissioner;

(7) For any retail licensee to sell or dispense nonintoxicating beer through draught lines where the draught lines have not been cleaned at least every two weeks in accordance with rules promulgated by the commissioner, and where written records of all cleanings are not maintained and available for inspection;

(8) For any licensee to permit in his or her premises any lewd, immoral, or improper entertainment, conduct, or practice;

(9) For any licensee, except the holder of a license to operate a private club issued under the provisions of §60-7-1 *et seq.* of this code or a holder of a license or a private wine restaurant issued under the provisions of §60-8-1 *et seq.* of this code to possess a federal license, tax receipt, or other permit entitling, authorizing, or allowing the licensee to sell liquor or alcoholic drinks other than nonintoxicating beer;

(10) For any licensee to obstruct the view of the interior of his or her premises by enclosure, lattice, drapes, or any means which would prevent plain view of the patrons occupying the premises. The interior of all licensed premises shall be adequately lighted at all times: *Provided*, That provisions of this subdivision do not apply to the premises of a Class B retailer, the premises of a private club licensed under the provisions of §60-7-1 *et seq.* of this code, or the premises of a private wine restaurant licensed under the provisions of §60-8-1 *et seq.* of this code;

(11) For any licensee to manufacture, import, sell, trade, barter, possess, or acquiesce in the sale, possession, or consumption of any alcoholic liquors on the premises covered by a license or on premises directly or indirectly used in connection with it: *Provided*, That the prohibition contained in this subdivision with respect to the selling or possessing or to the acquiescence in the sale, possession, or consumption of alcoholic liquors is not applicable with respect to the holder of a license to operate a private club issued under the provisions of §60-7-1 *et seq.* of this code, nor shall the prohibition be applicable to a private wine restaurant licensed under the provisions of §60-8-1 *et seq.* of this code insofar as the private wine restaurant is authorized to serve wine;

(12) For any retail licensee to sell or dispense nonintoxicating beer, as defined in this article, purchased or acquired from any source other than a distributor, brewer, or manufacturer licensed under the laws of this state;

(13) For any licensee to permit loud, boisterous, or disorderly conduct of any kind upon his or her premises or to permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude of the community where the business is located: *Provided*, That a licensee may have speaker systems for outside broadcasting as long as the noise levels do not create a public nuisance or violate local noise ordinances;

(14) For any person whose license has been revoked, as provided in this article, to obtain employment with any retailer within the period of one year from the date of the revocation, or for any retailer to knowingly employ that person within the specified time;

(15) For any distributor to sell, possess for sale, transport, or distribute nonintoxicating beer except in the original container;

(16) For any licensee to knowingly permit any act to be done upon the licensed premises, the commission of which constitutes a crime under the laws of this state;

(17) For any Class B retailer to permit the consumption of nonintoxicating beer upon his or her licensed premises;

(18) For any Class A licensee, his, her, its, or their servants, agents, or employees, or for any licensee by or through any servants, agents, or employees, to allow, suffer, or permit any person less than 18 years of age to loiter in or upon any licensed premises; except, however, that the provisions of this subdivision do not apply where a person under the age of 18 years is in or upon the premises in the immediate company of ~~his or her parent or parents~~ a parent or legal guardian, or where and while a person under the age of 18 years is in or upon the premises for the purpose of and actually making a lawful purchase of any items or commodities sold, or for the purchase of and actually receiving any lawful service rendered in the licensed premises, including the consumption of any item of food, drink, or soft drink lawfully prepared and served or sold for consumption on the premises;

(19) For any distributor to sell, offer for sale, distribute, or deliver any nonintoxicating beer outside the territory assigned to any distributor by the brewer or manufacturer of nonintoxicating beer or to sell, offer for sale, distribute, or deliver nonintoxicating beer to any retailer whose principal place of business or licensed premises is within the assigned territory of another distributor of the nonintoxicating beer: *Provided*, That nothing in this section is considered to prohibit sales of convenience between distributors licensed in this state where one distributor

sells, transfers, or delivers to another distributor a particular brand or brands for sale at wholesale; and

(20) For any licensee or any agent, servant, or employee of any licensee to knowingly violate any rule lawfully promulgated by the commissioner in accordance with the provisions of chapter 29A of this code.

(b) Any person who violates any provision of this article, including, but not limited to, any provision of this section, or any rule, or order lawfully promulgated by the commissioner, or who makes any false statement concerning any material fact in submitting an application for a license or for a renewal of a license or in any hearing concerning the revocation of a license, or who commits any of the acts in this section declared to be unlawful is guilty of a misdemeanor and, upon conviction thereof, shall be punished for each offense by a fine of not less than \$25, nor more than \$500, or confined in the county or regional jail for not less than 30 days nor more than six months, or by both fine and confinement. Magistrates have concurrent jurisdiction with the circuit court and any other courts having criminal jurisdiction in their county for the trial of all misdemeanors arising under this article.

(c) (1) A Class B licensee that:

(A) Has installed a transaction scan device on its licensed premises; and

(B) Can demonstrate that it requires each employee, servant, or agent to verify the age of any individual to whom nonintoxicating beer is sold, furnished, or given away by the use of the transaction device ~~may not be~~ is not subject to: (i) Any criminal penalties whatsoever, including those set forth in subsection (b) of this section; (ii) any administrative penalties from the commissioner; or (iii) any civil liability whatsoever for the improper sale, furnishing, or giving away of nonintoxicating beer to an individual who is less than 21 years of age by one of his or her employees, servants, or agents. Any agent, servant, or employee who has improperly sold, furnished, or given away nonintoxicating beer to an individual less than 21 years of age is subject to the criminal penalties of subsection (b) of this section. Any agent, servant, or employee who has improperly sold, furnished, or given away nonintoxicating beer to an individual less than 21 years of age is subject to termination from employment, and the employer shall have no civil liability for the termination.

(2) For purposes of this section, a Class B licensee can demonstrate that it requires each employee, servant, or agent to verify the age of any individual to whom nonintoxicating beer is sold by providing evidence: (A) That it has developed a written policy which requires each employee, servant, or agent to verify the age of each individual to whom nonintoxicating beer will be sold, furnished, or given away; (B) that it has communicated this policy to each employee, servant, or agent; and (C) that it monitors the actions of its employees, servants, or agents regarding the sale, furnishing, or giving away of nonintoxicating beer and that it has taken corrective action for any discovered noncompliance with this policy.

(3) "Transaction scan" means the process by which a person checks, by means of a transaction scan device, the age and identity of the cardholder, and "transaction scan device" means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information enclosed on the magnetic strip or bar code of a driver's license or other governmental identity card.

(d) Nothing in this article nor any rule of the commissioner shall prevent or be considered to prohibit any licensee from employing any person who is at least 18 years of age to serve in the licensee's lawful employ, including the sale or ~~delivery~~ distribution of nonintoxicating beer as defined in this article. With the prior approval of the commissioner, a licensee whose principal business is the sale of food or consumer goods, or the providing of recreational activities, including, but not limited to, nationally franchised fast food outlets, family oriented restaurants, bowling alleys, drug stores, discount stores, grocery stores, and convenience stores, may employ persons who are less than 18 years of age, but at least 16 years of age: *Provided*, That the person's duties may ~~not~~ include the sale or ~~delivery~~ of nonintoxicating beer or alcoholic liquors only when directly supervised by a person 21 years of age or older: *Provided, however*, That the authorization to employ persons under the age of 18 years shall be clearly indicated on the licensee's license.

CHAPTER 19. AGRICULTURE.

ARTICLE 2. MARKETING AGRICULTURAL PRODUCTS.

§19-2-12. Agriculture Development Fund; administration; purpose; funding.

(a) There is hereby created in the State Treasury a special revenue account to be known as the Agriculture Development Fund. The fund shall be administered by the Department of Agriculture. The fund shall consist of all moneys deposited into the fund pursuant to §60-8A-3 of this code; any moneys that may be designated for deposit in this fund by an act of the Legislature; any moneys appropriated and designated for the fund by the Legislature; any moneys able to be transferred into the fund by authority of the commissioner from other funds; and gifts, donations, and interest or other returns earned from investment of the fund.

(b) Expenditures from the fund shall be for the purpose of fostering and supporting the development of agricultural sectors, such as hard cider, within the state, and are not authorized from collections, but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 et seq. of this code and upon the fulfillment of the provisions set forth in §11B-2-1 et seq. of this code. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund, but shall remain in the fund and be expended as provided by this section.

§19-2-13. Hard cider development program; purpose; funding.

The commissioner shall establish a program to foster the development and growth of the hard cider industry in the state. The purpose of the program shall be to assist in the development of fruit inputs necessary for the production of hard cider in the state. The program shall be funded using moneys deposited within the Agriculture Development Fund created pursuant to §19-2-12 of this code.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 1. GENERAL PROVISIONS.

§60-1-5a. Farm wineries defined.

(a) For the purpose of this chapter "Farm winery" means an establishment where in any year 50,000 gallons or less of wine, which includes hard cider, and nonfortified dessert wine are

manufactured exclusively by natural fermentation from grapes, apples, pears, peaches, other fruits or honey, or other agricultural products containing sugar and where port, sherry, and Madeira wine may also be manufactured, with 25 percent of such raw products being produced by the owner of ~~such~~ the farm winery on the premises of that establishment and no more than 25 percent of such ~~produce~~ produce originating from any source outside this state. Any port, sherry, or Madeira wine manufactured by a winery or a farm winery ~~must~~ shall not exceed an alcoholic content of 22 percent alcohol by volume and shall be matured in wooden barrels or casks.

(b) Notwithstanding the provisions of subsection (a) of this section, a farm winery may include one off-farm location. The owner of a farm winery may provide to the commissioner evidence, accompanied by written findings by the West Virginia Agriculture Commissioner in support thereof, that the owner has planted on the premises of the farm winery young nonbearing fruit plants. The commissioner may grant permission for one off-farm location when the location produces in an amount equal to that reasonably expected to be produced when the nonbearing fruit plants planted on the farm winery come into full production. The length of time of the permission to use an off-farm location shall be determined by the commissioner after consultation with the Agriculture Commissioner.

ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.

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

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

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

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

(d) Sale Requirements. -

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

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

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

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

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

(e) Private Liquor Delivery Requirements. -

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Private Liquor Bottle Delivery Permit. -

(1) Each private delivery vehicle, whose driver is 21 years of age or older, shall have a permit for the delivery of food and a sealed liquor bottle or can in the original container, subject to the requirements of this chapter.

(2) A retail liquor outlet or third party private delivery licensee shall provide vehicle and driver information, requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner as soon as possible.

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

(h) Enforcement. -

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

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

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

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

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

(j) Retail liquor outlets licensed for off-premises sales of sealed liquor bottles and cans in the original container may provide for the sale and delivery through a drive up or drive through structure, approved by the commissioner, of sealed liquor bottles or cans in the original container, 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.

§60-3A-25. Certain acts of retail licensees prohibited; criminal penalties.

(a) It is unlawful for any retail licensee, or agent or employee thereof, on ~~such~~ the retail licensee's premises to:

(1) Sell or offer for sale any liquor other than from the original package or container;

(2) Sell, give away, or permit the sale of, gift of, or the procurement of, any liquor, for or to any person under 21 years of age;

(3) Sell, give away, or permit the sale of, gift of, or the procurement of, any liquor, for or to any person visibly intoxicated;

(4) Sell or offer for sale any liquor other than during the hours permitted for the sale of liquor by retail licensees as provided under this article;

(5) Permit the consumption by any person of any liquor;

(6) With the intent to defraud, alter, change, or misrepresent the quality, quantity, or brand name of any liquor;

(7) Permit any person under 18 years of age to sell, furnish, or give liquor to any other person, except as provided in subsection (c) of this section;

(8) Purchase or otherwise obtain liquor in any manner or from any source other than that specifically authorized in this article; or

(9) Permit any person to break the seal on any package, can or bottle of liquor.

(b) Any person who violates any provision of this article, except section 24 of this article, including, but not limited to, any provision of this section, or any rule promulgated by the board or the commissioner, or who makes any false statement concerning any material fact, or who omits any material fact with intent to deceive, in submitting an application for a retail license or for a renewal of a retail license or in any hearing concerning the suspension or revocation thereof, or who commits any of the acts declared in this article to be unlawful, is guilty of a misdemeanor and, shall, upon conviction thereof, for each offense be fined not less than \$100 or more than \$5,000, or imprisoned in the county jail for not less than 30 days nor more than one year, or both fined and imprisoned. Magistrates have concurrent jurisdiction with the circuit courts for offenses under this article.

(c) Nothing in this article, or any rule of the board or commissioner, prevents or prohibits any retail licensee from employing any person who is at least 18 years of age to serve in any retail licensee's lawful employment at any retail outlet operated by ~~such~~ the retail licensee, or from having ~~such~~ the person sell ~~or deliver~~ liquor or transport liquor on behalf of a manufacturer under the provisions of this article. With the prior approval of the commissioner, a retail licensee may employ persons at any retail outlet operated by ~~such a~~ a retail licensee who are less than 18 years of age but at least 16 years of age, ~~but such the persons' duties shall not may~~ include the sale or delivery of liquor only when directly supervised by a person 21 years of age or older: Provided, That the authorization to employ such the persons under the age of 18 years shall be clearly indicated on the retail licensee's license issued to any such retail licensee. Provided, however, That nothing in this article, nor any rule or regulation of the commissioner, shall prevent or be considered to prohibit any licensee from employing any person who is at least 21 years of age for the ordering and delivery of liquor when licensed for liquor ordering and delivery under the provisions of this chapter.

ARTICLE 4. LICENSES.

§60-4-3a. Distillery and mini-distillery license to manufacture and sell.

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

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

(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 liquor for sale to customers from the distillery, mini-distillery, or micro-distillery for off-premises consumption ~~shall be~~ is subject of a five percent wholesale markup fee and an 80 cents per case bailment fee to be paid to the commissioner: *Provided, however*, That ~~no~~ liquor sold by the distillery, mini-distillery, or micro-distillery shall not be priced less than the price set by the commissioner pursuant §60-3A-17 of this code.

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

(e) *Limitations on licensees.* — ~~No~~ A distillery, mini-distillery, or micro-distillery may not sell more than 3,000 gallons of product at the distillery, mini-distillery, or micro-distillery location during the initial two years 24 month period of licensure. The distillery, mini-distillery, or micro-distillery may increase sales at the distillery, mini-distillery, micro-distillery location by 2,000 gallons following the initial 24 month period of licensure and may increase sales at the distillery, mini-distillery, or micro-distillery location each subsequent 24 month period by 2,000 gallons, not to exceed 10,000 gallons a year of total sales at the distillery, mini-distillery, or micro-distillery location. No licensed mini-distillery may produce more than 50,000 gallons per calendar year at the mini-distillery location. ~~No~~ A licensed micro-distillery may not produce more than 10,000 gallons per calendar year at the micro-distillery location. ~~No~~ The commissioner may issue more than one distillery or mini-distillery license ~~may be issued~~ to a single person or entity and ~~no~~ a person may ~~not~~ hold both a distillery and a mini-distillery license. The owners of a licensed distillery, mini-distillery, or micro-distillery may operate a winery, farm winery, brewery, or as a resident brewer as otherwise specified in the code.

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

§60-4-3b. Winery and farm winery license to manufacture and sell.

(a) An operator of a winery or farm winery may offer wine produced by the winery, farm winery, or a farm entity authorized by §60-1-5c of this code, for retail sale to customers from the winery or farm winery for consumption off the premises only. Customers may consume wine on the premises when an operator of a winery or farm winery offers ~~Except for free complimentary~~

samples offered pursuant to §60-6-1 of this code, the winery or farm winery is licensed as a private wine restaurant, or the winery or farm winery is licensed as a private manufacturer club. customers ~~Customers are prohibited from consuming~~ may not consume any wine on the licensed premises of the winery, farm winery, or a farm entity authorized by §60-1-5c of this code, unless ~~such~~ the winery, farm winery, or farm entity has obtained a multi-capacity winery or farm winery license: *Provided, That* under this subsection, a licensed winery or farm winery may offer complimentary samples ~~per this subsection~~ of wine manufactured by that licensed winery or farm winery for consumption on the premises only on Sundays beginning at ~~4:00~~ 6:00 a.m. in any county in which the same has been approved as provided in §7-1-3ss of this code. Notwithstanding any other provision of law to the contrary, a licensed winery or farm winery may sell, serve, and furnish wine, for on-premises consumption when licensed accordingly, beginning at 6:00 a.m., and for off-premises consumption beginning at 6:00 a.m. on any day of the week, unless otherwise determined by the residents of the county pursuant to §7-1-3ss of this code.

(b) Complimentary samples allowed by the provisions of this section may not exceed two fluid ounces and no more than three ~~such~~ samples may be given to a patron in any one day.

(c) Complimentary samples may be provided only for on-premises consumption.

(d) A winery, farm winery, or farm entity pursuant to §60-1-5c of this code may offer for retail sale from their licensed premises sealed original container bottles of wine for off-premises consumption only.

(e) A winery, farm winery, or farm entity licensed pursuant to §60-1-5c of this code, holding a multicapacity license and a private wine restaurant license may offer wine by the drink or glass in a private wine restaurant located on the property of the winery, farm winery, or farm entity licensed pursuant to §60-1-5c of this code.

(f) Every licensed winery or farm winery shall comply with the provisions of §60-3-1 *et seq.*, §60-4-1 *et seq.*, and §60-8-1 *et seq.* of this code as applicable to wine retailers, wineries, and suppliers when properly licensed in such capacities.

(g) (1) The winery or farm winery shall pay all taxes and fees required of licensed wine retailers and meet applicable licensing provisions as required by this chapter and by rules promulgated by the commissioner.

(2) Each winery or farm winery acting as its own supplier shall submit to the Tax Commissioner the liter tax for all sales at the winery or farm winery each month, as provided in §60-8-1 *et seq.* of this code.

(3) The five percent wine excise tax, levied pursuant to §60-3-9d of this code, or pursuant to §8-13-7 of this code, may not be imposed or collected on purchases of wine in the original sealed package for the purpose of resale in the original sealed package, if the final purchase of ~~such~~ the wine is subject to the excise tax or if the purchase is delivered outside this state.

(4) No liter tax shall be collected on wine sold in the original sealed package for the purpose of resale in the original sealed package if a subsequent sale of ~~such~~ the wine is subject to the liter tax.

(5) This section shall not be interpreted to authorize a purchase for resale exemption in contravention of §11-15-9a of this code.

(h) A winery or farm winery may advertise a particular brand or brands of wine produced by it. ~~and the~~ The price of the wine is subject to federal requirements or restrictions.

(i) A winery or farm winery ~~must~~ shall maintain a separate winery or farm winery supplier, retailer, and direct shipper licenses when acting in one or more of those capacities and ~~must~~ shall pay all associated license fees, unless ~~such~~ the winery or farm winery holds a license issued pursuant to the provisions of §60-8-3(b)(12) of this code. A winery or farm winery, if holding the appropriate licenses or a multi-capacity winery or farm winery license, may act as its own supplier; retailer for off-premises consumption of its wine as specified in §60-6-2 of this code; private wine restaurant; and direct shipper for wine produced by the winery or farm winery. A winery or farm winery that has applied, paid all fees, and met all requirements may obtain a private manufacturer club license subject to the requirements of §60-7-1 et seq. of this code, and a Class A retail dealer license subject to the requirements of §11-16-1 et seq. of the code. All wineries must use a distributor to distribute and sell their wine in the state, except for farm wineries. ~~No more than one winery or farm winery license may be issued to a single person or entity and no person may hold both a winery and a farm winery license~~ Wineries or farm wineries may enter into alternating wine proprietorship agreements pursuant to §60-1-5c of this code.

(j) The owners of a licensed winery or farm winery may operate a distillery, mini-distillery, or micro-distillery, brewery, or as a resident brewer, as otherwise specified in the code.

(j) ~~(k)~~ For purposes of this section, terms ~~will~~ have the same meaning as provided in §8-13-7 of this code.

(l) Building code and tax classification- Notwithstanding any provision of this code to the contrary, the mere addition of a winery or farm winery licensed under this article on a property does not change the nature or use of the property which otherwise qualifies as agricultural use for building code and property tax classification purposes.

§60-4-3c. License required for sale and shipment of liquor by a distillery, mini-distillery or micro-distillery; shipment of limited quantities of liquor permitted by a private direct shipper; requirements; license fee, and penalties.

(a) Authorization. - Except for the commissioner, no person may offer for sale liquor, sell liquor, or offer liquor for shipment in this state, except for a licensed private direct shipper. A distillery, mini-distillery, or micro-distillery, whose licensed premises is located in this state or whose licensed premises is located and licensed out of this state, who desires to engage in the sale and shipment of liquor produced by the distillery, mini-distillery, or micro-distillery on its licensed premises, shall ship directly from the licensee's primary place of distilling by mail, using a mail shipping carrier to a purchasing person who is 21 years of age or older, for personal use, and not for resale under this article. The distillery, mini-distillery, or micro distillery shall obtain a private direct shipper license. Shipments to a purchasing person shall only be to a retail liquor outlet in the market zone in which the purchasing person resides. A private direct shipper may ship liquor subject to the requirements in this chapter in and throughout West Virginia, except for those local option areas designated as "dry" areas per §60-5-1 et seq. of this code. A private direct shipper may also sell and ship liquor out of this state directly from its primary place of distilling by mail, using a mail shipping carrier to a purchasing person who is 21 years of age or older subject to the recipient state's or country's requirements, laws, and international laws.

(b) License requirements. – Before sending any shipment of liquor to a purchasing person who is 21 years of age or older, the private direct shipper must first:

(1) File a license application with the commissioner with the appropriate background check information, using forms required by the commissioner. Criminal background checks will not be required of applicants licensed in their state of domicile who can provide a certificate of good standing from their state of domicile;

(2) Pay to the commissioner the \$250 non-prorated and nonrefundable annual license fee to ship and sell only liquor;

(3) Obtain a business registration number from the Tax Commissioner;

(4) Register with the office of the Secretary of State;

(5) Provide the commissioner a true copy of its current active license issued in the state of domicile, proving that the private direct shipper is licensed in its state of domicile as a distillery, is authorized by such state to ship liquor;

(6) Obtain from the commissioner a private direct shipper's license;

(7) Submit to the commissioner a list of all brands of liquor to be shipped to West Virginia and attest that all liquor brands are manufactured by the distillery on its licensed premises seeking licensure and are not counterfeit or adulterated liquor;

(8) Attest that the distillery, mini-distillery, or micro-distillery distills less than 50,000 gallons of liquor each calendar year and provide documentary evidence along with the attestation; and

(9) Meet all other licensing requirements of this chapter and provide any other information that the commissioner may reasonably require.

(c) Shipping Requirements. - All private direct shipper licensees shall:

(1) Not ship more than two bottles of liquor per month to a retail liquor outlet for pickup by a purchasing person who is 21 years of age or older for his or her personal use and consumption, and not for resale. The combined fluid volume of both bottles shall not exceed 3 liters;

(2) Not ship to any address in an area identified by the commissioner as a "dry" or local option area where it is unlawful to sell liquor;

(3) Not ship to any licensed suppliers, brokers, distributors, retailers, private clubs, or other licensees licensed under this chapter or §11-16-1 et seq. of this code;

(4) Not ship liquor from overseas or internationally; and

(5) Ensure that all containers of liquor shipped to a retail liquor outlet for pickup by a purchasing person who is 21 years of age or older, are clearly and conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON 21 OR OLDER REQUIRED FOR DELIVERY";

(6) Obtain a written or electronic signature upon delivery to a retail liquor outlet for pickup by a purchasing person who is 21 years of age or older; and

(7) Utilize a licensed and bonded shipping carrier who has obtained a transportation permit as specified in §60-6-12 of the code.

(d) Payment of Fees and Taxes.

(1) Any private direct shipper licensee on all sales of liquor must collect and remit the entire wholesale markup percentage and any handling fees, in full, as set forth in §60-3A-17 of the code and by rule of the commissioner to the commissioner at the close of each month and file a monthly report, on a form provided by the commissioner.

(2) Further, the private direct shipper licensee on all sales of liquor shall collect and remit all state sales tax, municipal tax, and local sales tax to the Tax Commissioner at the close of each month and file a monthly return, on a form provided by the Tax Commissioner, reflecting the taxes paid for all sales and shipments.

(3) The payment of fees to the commissioner and taxes to the Tax Commissioner may be in addition to fees and taxes levied by the private direct shipper's domicile state.

(4) No private direct shipper will be required to pay any fees to the commissioner or taxes to the Tax Commissioner more than once.

(5) A retail liquor outlet which has entered a written agreement with a private direct shipper to accept a liquor shipment under this section may charge an additional fee of ten percent fee based on the total price of the liquor shipment, excluding the shipping charges, to a lawful purchaser.

(e) Jurisdiction. - By obtaining a private direct shipper licensee be deemed to have agreed and consented to the jurisdiction of the commissioner or any other state agency, which is Charleston, West Virginia and the Kanawha County circuit court, concerning enforcement of this chapter and any other related laws or rules.

(f) Records and reports. -

(1) Licensed private direct shippers and retail liquor outlets must maintain accurate records of all shipments sent to West Virginia.

(2) Provide proof or records to the commissioner, upon request, that all direct shipments of liquor were purchased and delivered to a purchasing person who is 21 years of age or older.

(g) The private direct shipper may annually renew its license with the commissioner by application, paying the private direct shipper license fee and providing the commissioner with a true copy of a current distillery license from the private direct shipper's domicile state.

(h) The commissioner may promulgate rules to effectuate the purposes of this law.

(i) Penalties. -

(1) The commissioner may enforce the requirements of this chapter by administrative proceedings as set forth in §60-7-13 and §60-7-13a of this code to suspend or revoke a private direct shipper's license or retail liquor outlet's license, and the commissioner may accept payment of a penalties as set forth in §60-7-13 and §60-7-13a of this code or an offer in compromise in lieu of suspension, at the commissioner's discretion. Hearings and appeals on such notices may be had in the same manner as in the case of revocations of licenses set forth in §60-7-13 and §60-7-13a of this code.

(2) If any such distillery violates the provisions of this chapter, the commissioner may determine to suspend the privileges of the distillery to sell, ship, or deliver liquor to a purchasing person who is 21 years of age or older or to the commissioner, or otherwise engage in the liquor business in this state for a period of one year from the date a notice is mailed to such person by the commissioner of the fact that such person has violated the provisions of this article. During such one-year period, it shall be unlawful for any person within this state to buy or receive liquor from such person or to have any dealings with such person with respect thereto.

(k) *Criminal Penalties.* – A shipment of liquor directly to citizens in West Virginia from persons who do not possess a valid private direct shipper’s license is prohibited. Any person who knowingly makes, participates in, transports, imports, or receives such an unlicensed and unauthorized direct shipment is guilty of a felony and, shall, upon conviction thereof, be fined in an amount not to exceed \$10,000 per violation or shall be imprisoned in jail for a period not to exceed 72 hours. Without limitation on any punishment or remedy, criminal or civil, any person who knowingly makes, participates in, transports, imports, or receives such a direct shipment constitutes an act that is an unfair trade practice.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

§60-6-8. Unlawful sale or possession by licensee.

A licensed person shall not:

(1) Sell, furnish, tender, or serve alcoholic liquors of a kind other than that which ~~such~~ the license or this chapter authorizes him or her to sell;

(2) Sell, furnish, tender, or serve beer to which wine, spirits, or alcohol has been added;

(3) Sell, furnish, tender, or serve wine to which other alcoholic spirits have been added, otherwise than as required in the manufacture ~~thereof~~ of the wine under ~~regulations~~ rules of the commission;

(4) Sell, furnish, tender, or serve alcoholic liquors to a person specified in §60-3-22 of this code;

(5) Sell, furnish, tender, or serve alcoholic liquors except as authorized by ~~his or her~~ its license;

(6) Sell, furnish, tender, or serve alcoholic liquors other than by the drink, poured from the alcoholic liquors’ original container: *Provided*, That under certain requirements exceptions to liquor by the drink are as follows:

(A) A private club licensed under §60-7-1 *et seq.* of this code, that is in good standing with the commissioner and has paid a \$1000 on-premises only bottle service fee to the commissioner, may sell or serve liquor by the bottle to two or more persons for consumption on the licensed premises only, and any liquor bottle sold by ~~such a~~ the private club shall be sold at retail for personal use, and not for resale, to a person for not less than 300 percent of the private club’s cost, and ~~no such~~ the liquor bottle shall ~~not~~ be removed from the licensed premises by any person or the licensee; and

(B) A Class A licensee licensed under §60-8-1 *et seq.* of this code may sell or serve wine by the bottle to two or more persons for consumption on the licensed premises only, unless such the licensee has obtained a license or privilege authorizing other activity;

(7) Sell, furnish, tender, or serve pre-mixed alcoholic liquor that is not in the original container: *Provided*, That a licensee may sell, furnish, tender, and serve up to 15 recipes of pre-mixed beverages consisting of alcoholic liquors, and nonalcoholic mixer, and ice if in a manner approved by the commissioner and in accord with public health and safety standards:

(A) The licensee shall use approved dispensing and storage equipment which shall be cleaned at the end of the day. Failure to clean the dispensing and storage equipment shall result in the immediate suspension or revocation of the permit;

(B) The licensee shall sanitize and clean the pre-mixing beverage storage equipment after each usage or after each batch of the pre-mixed beverage is made;

~~(A) The frozen drink mixing beverage machine is emptied and sanitized daily; and~~

~~(B)(C) That~~ The licensee shall maintain a written record reflecting the cleaning and sanitizing of the storage and dispensing equipment ~~frozen drink machine is maintained~~ for inspection by the commissioner and health inspectors;

(D) A violation or violations this subdivision may result in the suspension or revocation of the permit and may result in additional sanctions under this chapter or §11-16-1 *et seq.* of this code;

(8) Sell, furnish, tender, or serve any alcoholic liquor when forbidden by the provisions of this chapter;

(9) Sell, possess, possess for sale, tender, serve, furnish, or provide any powdered alcohol;

(10) Keep on the premises covered by his or her license alcoholic liquor other than that which he or she is authorized to sell, furnish, tender, or serve by such license or by this chapter.

A person who violates any provision of this section ~~shall be~~ is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail not less than 30 days nor more than one year, or both ~~such fine~~ fined and confined ~~confinement~~ for the first offense. Upon conviction of a second or subsequent offense, the court may ~~in its discretion~~ impose a penalty of imprisonment in a state correctional facility for a period not to exceed three years. A person who violates any provision of this section for the second or any subsequent offense under this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a period not to exceed three years.

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-2. Definitions; authorizations; requirements for certain licenses. ~~power to lease building for establishment of private club.~~

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

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

(b) “Code” means the official Code of West Virginia, 1931, as amended.

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

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

(e) “Private club” means any corporation or unincorporated association which either: (1) 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 club 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 club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests; ~~or~~ (2) is a nonprofit social club, 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 club 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 club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests; ~~or~~ (3) is organized and operated for legitimate purposes which has at least 100 duly elected or approved dues-paying members in good standing, which owns or leases a building or other premises, including any vessel licensed or approved by any federal agency to carry or accommodate passengers on navigable waters of this state, to which club 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 club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment and employs a sufficient number of persons for serving meals to members and their guests; or (4) is organized for legitimate purposes and owns or leases a building or other delimited premises in any state, county, or municipal park or at any airport, in which building or premises a club has been established, to which club are admitted only duly elected and approved dues-paying members in good standing and their guests while in the company of a member and to which club the general public is not admitted, and which maintains in connection with the club a suitable kitchen and dining facility and related equipment and employs a sufficient number of persons for serving meals in the club to the members and their guests.

(f) “Private caterer” means a licensed private club restaurant authorized by the commissioner to cater and serve food and sell and serve alcoholic liquors, or non-intoxicating beer, or non-intoxicating craft beer. A private caterer shall purchase wine sold or served at a catering event from a wine distributor. A private caterer shall purchase non-intoxicating beer and non-intoxicating craft beer sold or served at the catering event from a licensed beer distributor. A private caterer shall purchase liquor from a retail liquor outlet authorized to sell in the market zone, where the catering event is held. The private caterer or the persons or entity holding the catering event shall:

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

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

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

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

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

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

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

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

(D) A floorplan of the unlicensed private venue to comprise the private catering premises, which shall only include spaces in buildings or rooms of an unlicensed private venue where the private caterer has control of the space for a set time period where the space safely accounts for the ingress and egress of the stated members and guests who will be attending the private 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;

(6) 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;

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

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

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

(g) "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 when licensed for such sales, while providing a limited food menu for members and guests, and meeting the criteria set forth in this subsection which:

(1) Has at least 100 members;

(2) Operates a bar with a kitchen, including at least: (A) A two-burner hot plate, air fryer, or microwave oven; (B) a sink with hot and cold running water; (C) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer, which is not used for alcohol cold

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

(3) Maintains, at any one time, \$500 of 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;

(4) 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, and 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

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

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

(1) Has at least 100 members;

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

(3) Maintains, at any one time, \$1,000 of fresh food inventory capable of being prepared 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, prepackaged foods, or canned prepared foods;

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

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

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

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

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

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

(1) Has at least 100 members;

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

(3) Operates a 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 serves freshly prepared food at least 15 hours per week;

(4) Maintains, at any one time, \$500 of fresh food inventory capable of being prepared in the private manufacturer club'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;

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

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

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

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

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

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

(1) Has at least 100 members;

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

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

(4) ~~Shall~~ Does not use third-party entities or individuals to purchase, sell, furnish, or serve alcoholic liquors ~~(liquor and wine)~~, nonintoxicating beer, or nonintoxicating craft beer;

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

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

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

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

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

(1) Has at least 2,000 members;

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

(3) Operates a restaurant and full kitchen with ovens, four-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 20 hours per week;

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

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

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

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

(7) 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; ~~and~~

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

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

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

(1) Has at least 5,000 members;

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

(3) 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;

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

(5) 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;

(6) Lists the entire property from subdivision (5) of this subsection and all adjoining buildings and structures on the private resort hotel's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors 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 and as noted on the private resort hotel's floorplan;

(7) Has an identified person, ~~or~~ 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;

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

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

~~(9)~~(10) 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 complimentary samples at the resident brewery.

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

(1) Has at least 100 members;

(2) 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;

(3) 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;

(4) 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;

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

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

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

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

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

(1) Has at least 50 members;

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

(3) 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;

(4) Owns or leases, controls, operates, and uses acreage amounting to at least 30 contiguous acres of bounded or fenced real property which would be listed on the private nine-hole golf course'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;

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

(6) 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; ~~and~~

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

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

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

(1) Has at least 100 members;

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

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

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

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

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

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

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

(p) "Private professional sports stadium " means an applicant for a private club or licensed private club licensee that is only open for professional sporting events when such events are affiliated with or sponsored by a professional sporting association, 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 not sell alcoholic liquors when conducting or hosting non-professional sporting events, and further the applicant shall:

(1) Have at least 1000 members;

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

(3) Operate a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and 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 professional sports stadium;

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

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

(6) Have 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;

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

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

(q) "Private farmers market" means an applicant for a private club or licensed private club licensee that operates as an association of bars, restaurants, retailers who sell West Virginia made products among other products, and other stores who open primarily during daytime hours of 6 a.m. to 6 p.m., but may operate in the day or evenings for special events where the sale of food and alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer may occur for on-premises consumption, such as reserved weddings, reserved dinners, pairing events, tasting events, reunions, conferences, meetings, or other special events and does not maintain daily or regular operating hours as a bar or restaurant, and all business that are members of the association have agreed in writing to be liable and responsible for all sales, service, furnishing, tendering and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer occurring on the entire licensed premises of the private farmer's market, including indoor and outdoor bounded areas, and further the applicant shall:

(1) Have at least 100 members;

(2) 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 the two), and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 15 hours per week;

(3) Have one or more members operating who maintain, at any one time, \$1,000 of fresh food inventory capable of being prepared for events conducted at the private farmers market in the private club restaurant's full kitchen, and 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;

(4) 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;

(5) 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;

(6) 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;

(7) 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;

(8) Not use third-party entities or individuals to purchase, sell, furnish, or serve liquor, wine, nonintoxicating beer, or nonintoxicating craft beer;

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

(10) 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;

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

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

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

(r) "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:

(1) Has at least 25 members;

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

(3) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and is capable of serving freshly prepared food, or may engage 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;

(4) Owns or leases, controls, operates, and uses acreage amounting to at least two contiguous acres of bounded or fenced real property. The applicant or licensee shall verify that, the property is 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 floorplan and may be used for large events such as weddings, reunions, conferences, meetings, or other events;

(5) Lists the entire property from subdivision (4) of this subsection 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 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 and as noted on the private wedding venue or barn's floorplan;

(6) 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;

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

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

(s) "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:

(1) Has at least 100 members;

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

(3) Operates a restaurant and full kitchen with ovens in the licensee's main facility, as determined by the commissioner, on the licensed premises and 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 professional sports stadium. 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;

(4) Maintains, at any one time, \$1,000 of fresh food inventory 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;

(5) Owns or leases, controls, operates, and uses acreage amounting to at least 80 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;

(6) Lists the entire property from subdivision (5) of this subsection 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 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 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;

(7) 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;

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

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

The Department 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 such park or airport to any corporation or unincorporated association

for the establishment of a private club pursuant to this article.

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

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

(b) The annual license fee for a license issued under the provisions of this article to a private club other than a private club of the type specified in subsection (a) of this section ~~shall be~~ is \$1,000 if the private club bar or restaurant has fewer than 1,000 members; \$1,000 for a private club restaurant to be licensed as a private caterer as defined in §60-7-2 of this code; \$1,500 if the private club is a private wedding venue or barn; \$2,000 if the private club is a private nine-hole golf course, private farmers market, private professional sports stadium, private multi-sport complex, private manufacturer club, or a private tennis club as defined in §60-7-2 of this code; \$2,500 if the private club bar or private club restaurant has 1,000 or more members; \$4,000 if the private club is a private hotel with three or fewer designated areas or a private golf club as defined in §60-7-2 of this code; and further, if the private club is a private resort hotel as defined in §60-7-2 of this code, ~~said~~ the private resort hotel may designate areas within the licensed premises for the lawful sale, service, and consumption of alcoholic liquors as provided for by this article. The annual license fee for a private resort hotel with five or fewer designated areas ~~shall be~~ is

\$7,500 and the annual license fee for a private resort hotel with at least six, but no more than 10 designated areas ~~shall be~~ is \$12,500. The annual license fee for a private resort hotel with at least 11, but no more than 15 designated areas shall be \$17,500 . The annual license fee for a private resort hotel with no fewer than 15 nor more than 20 designated areas ~~shall be~~ is \$22,500. ~~Provided, That a~~ A private resort hotel ~~having that~~ obtained the license and paid the \$22,500 annual license fee may, upon application to and approval of the commissioner, designate additional areas for a period not to exceed seven days for an additional fee of \$150 per day, per designated area.

(c) The fee for any ~~such~~ license issued following January 1 of any year ~~and to expire that expires~~ on June 30 of ~~such that~~ year ~~shall be~~ is one half of the annual license fee prescribed by subsections (a) and (b) of this section.

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

(e) ~~All such fees shall be paid by the~~ The commissioner shall pay the fees to the State Treasurer and credited to the General Revenue Fund of the state.

(f)(1) The Legislature finds that the hospitality industry has been particularly damaged by the Covid-19 pandemic and that some assistance is warranted to promote reopening and continued operation of private clubs and restaurants licensed under this article.

(2) Accordingly, the fees set forth in subsections (a) and (b) of this section are temporarily modified as follows:

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

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

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

§60-7-8b. One-day charitable rare, antique, or vintage liquor auction; licensee fee and application; license subject to provisions of article; exceptions.

(a) The commissioner may issue a special one-day, license to a licensed private club in partnership with one or more duly organized, federally approved nonprofit corporations, associations, organizations, or entities allowing the nonprofit to conduct a charitable auction of certain sealed bottles of rare, antique, or vintage liquor, as determined by the commissioner, on the private club licensee's licensed premises for off-premises consumption only, when raising money for athletic, charitable, educational, scientific, or religious purposes. A licensed private club may not receive more than 12 licenses under this section per year.

(b) "Auction or auctioning", for the purposes of this section, means any silent, physical act, or verbal bid auction, where the auction requires in-person bidding at a licensed private club or online internet-based auction bidding, with bidders present at the licensed private club during the nonprofit auction, through a secure internet-based application or website.

(c) Requirements.-

(1) The licensed private club and nonprofit shall jointly complete an application, at least 15 days prior to the event. The application may require, but is not limited to, information relating to the date, time, place, floorplan of the charitable event, and any other information as the commissioner may require. The applicants shall include with the application a written signed and notarized statement that at least 80 percent of the net proceeds from the charitable event will be donated directly to the nonprofit. The commissioner may audit the licensed private club and nonprofit to verify the 80 percent requirement has been met.

(2) The licensed private club and nonprofit must be in good standing with the commissioner, and the applicants must receive the commissioner's approval prior to the charitable event.

(3) The licensed private club and nonprofit shall submit, and the commissioner shall review, the applicants' list of rare, antique, or vintage liquor, and the applicants shall submit documentation showing that the liquor was purchased from a licensed retail outlet in accordance with §60-3A-1 *et seq.* of this code with all taxes and fees paid. Any rare, antique, or vintage liquor with no documentation or that was not purchased in accordance with §60-3A-1 *et seq.* of this code, may be approved for auction, if all taxes and fees are paid to the commissioner in accordance with §60-3A-1 *et seq.* of this code. Any undocumented rare, antique, or vintage liquor approved for charitable auction by the commissioner must be labeled in the interest of public health and safety: "Purchase and consume at your own risk, as the authenticity or source of manufacture of this bottle has not been verified".

(4) The private club and nonprofit may not deliver, mail, or ship sealed or unsealed rare, antique, or vintage liquor bottles.

(5) The winning bidder of the auctioned rare, antique, or vintage liquor shall pay and receive the sealed rare, antique, or vintage liquor bottle before the conclusion of the event.

(6) The applicants shall pay a \$150 nonrefundable and nonprorated fee for the license.

(d) Exceptions.-

(1) The nonprofit's charitable auctioning of sealed rare, antique, or vintage liquor bottles, as determined by the commissioner, is permitted on the private club's licensed premises, notwithstanding the bingo, raffle, and lottery provisions of §47-20-10, §47-21-11, and §61-10-1 *et seq.* of this code, but in compliance with the auction requirements of §19-2c-1 *et seq.* of this code;

(2) The nonprofit, upon licensure by this section, is permitted a limited, one-time exception of the requirement to be a licensed retail outlet and hold a retail license issued pursuant to §60-3A-1 *et seq.* of this code to sell liquor; and

(3) The private club, upon licensure by this section, is provided a limited, one-time exception from §60-7-12(a)(1) and §60-6-8(6) of this code, in order to permit the licensed nonprofit to sell at auction the sealed rare, antique, or vintage liquor bottles for off-premises consumption, to permit

the carrying onto, the sale of, and the carrying off of the licensed premises the approved sealed liquor bottles. Any private club or nonprofit licensed pursuant to this code section are subject to all penalties for violations committed under §60-3A-1 et seq. of this code and §60-7-1 et seq. of this code.

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

(a) There is hereby created a special license designated Class S3 private multivendor fair and festival license for the retail sale of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer for on-premises consumption at an event where multiple vendors shall share liability and responsibility, and apply for this license. Each vendor may temporarily purchase, sell, furnish, or serve liquor, wine, nonintoxicating beer, and nonintoxicating craft beer as provided in this section.

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

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

(2) Jointly apply to the commissioner for the special license at least 15 days prior to the private fair, festival, or other event;

(3) Pay a nonrefundable nonprorated license fee of \$500 per event that may be divided among all the vendors attending the event;

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

(5) Be limited to no more than 15 consecutive days;

(6) Have at least two separate and unrelated vendors applying for the license and certifying that at least 100 members will be in attendance;

(7) Freshly prepare and provide food or meals, or engage a food vendor to prepare and provide adequate freshly prepared food or meals to serve its stated members and guests who will be attending the temporary festival, fair, or other event, and provide any written documentation or agreements of the food caterer to the commissioner prior to approval of the license;

(8) Not use third-party entities or individuals to purchase, sell, furnish, or serve liquor, wine, nonintoxicating beer, or nonintoxicating craft beer;

(9) Provide adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the private multi-vendor festival, fair, or other event;

(10) Provide an executed agreement between the vendors and/or food caterers stating that each vendor is jointly and severally liable for any improper acts or conduct committed during the multi-vendor festival or fair event;

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

(12) Provide a floorplan for the proposed premises with one defined and bounded indoor and/or outdoor area to safely account for the ingress and egress of stated members, patrons, and guests who will be attending the festival, fair, or other event, and the floorplan that would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of liquor, wine, 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 licensed premises and as noted on the floorplan;

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

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

(c) Nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from the licensed distributor that services the area in which the private multi-vendor fair and festival will be held or from a resident brewer acting in a limited capacity as a distributor, in accordance with §11-16-1 et seq. of this code.

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

(e) 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 multi-vendor fair or festival will be held, all in accordance with §60-3A-1 et seq. of this code.

(f) A licensee authorized by this section may use bona fide employees, independent contractors, or volunteers to sell, furnish, tender, or serve the liquor, wine, nonintoxicating beer, or nonintoxicating craft beer; *Provided*, That The licensee shall train all employees, independent contractors, or volunteers to verify legal identification and to verify signs of intoxication.

(g) Licensed representatives of a brewer, resident brewer, beer distributor, wine distributor, wine supplier, winery, farm winery, distillery, mini-distillery, micro-distillery, and liquor brokers may attend a private multi-vendor festival or fair and discuss their respective products but may not engage in the selling, furnishing, tendering, or serving of any liquor, wine, nonintoxicating beer, or nonintoxicating craft beer.

(h) A licensee licensed under this section is subject to all other provisions of this article and the rules and orders of the commissioner: *Provided*, That the commissioner may, by rule or order, allow certain waivers or exceptions with respect to those provisions, rules, or orders as required by the circumstances of each private multi-vendor fair and festival. The commissioner may revoke or suspend immediately any license issued under this section prior to any notice or hearing, notwithstanding §60-7-13a of this code: *Provided, however*, That under no circumstances may the provisions of §60-7-12 of this code be waived or an exception granted with respect thereto.

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

(a) Any private club licensee, in good standing with the commissioner, may apply, on a form provided by the commissioner, to sell, serve, and furnish alcoholic liquors, and when licensed for nonintoxicating beer or nonintoxicating craft beer, for on-premises consumption from a temporary area, legally demarcated, that would permit sales of alcoholic liquors or nonintoxicating beer or nonintoxicating craft beer in a private outdoor dining area or private outdoor street dining area, as legally demarcated by any municipal council or county commission.

(b) The private club licensee shall submit to the commissioner: (1) the municipal or county approval of the private outdoor dining area or private outdoor street dining area; and, (2) a revised floorplan requesting to sell alcoholic liquors, and when licensed for nonintoxicating beer or nonintoxicating craft beer, then nonintoxicating beer or nonintoxicating craft beer, subject to the commissioner's requirements, in an approved and bounded outdoor area that must be adjacent to the licensee's licensed premises for private outdoor dining under the licensee's control and with right of ingress and egress. The approved and bounded area need not be adjacent to the licensee's licensed premises, but in close proximity, for private outdoor street dining. For purposes of this subsection, "close proximity" means an available area within 150 feet of a licensee's licensed premises and under the 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 in-person or in-vehicle while picking up food or a meal, 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.

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

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

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

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

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

(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) 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 purpose 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) *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) *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, then, notwithstanding the provisions of this section to the contrary, such craft cocktail growler must only be used one-time, for one filling, and be discarded after the one-time use.

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

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

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

(b) A third party, not licensed for liquor sales or distribution, may apply for a private delivery license for the privilege of ordering and delivery of craft cocktail growlers, from a licensee with a craft cocktail growler license. The order and delivery of a sealed craft cocktail growler is permitted by a third party who obtains a license under this section when a private club restaurant or private manufacturer club sells to a person purchasing the sealed craft cocktail growler through telephone orders, a mobile ordering application, or a web-based software program. The private delivery license nonprorated, nonrefundable annual fee is \$200 for each third party entity, with no limit on the number of drivers and vehicles.

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

(d) *Sale Requirements.* -

(1) The craft cocktail growler purchase shall accompany the purchase of prepared food or a meal and the completion of the sale may be accomplished by the delivery of the prepared food or a meal, and craft cocktail growler by the licensee or third party private delivery licensee;

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

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

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

(5) A third party private delivery licensee shall not have a pecuniary interest in a private club restaurant or private manufacturer club licensee, as set forth in this article. A third party private delivery licensee may only charge a convenience fee for the delivery of any alcohol. The third party private delivery licensee may not collect a percentage of the delivery order for the delivery of alcohol, but may continue to collect a percentage of the delivery order directly related to the prepared food or a meal. The convenience fee charged by the third-party private delivery licensee

to the purchasing person shall be no greater than five dollars per delivery order where a craft cocktail growler is ordered by the purchasing person. For any third party licensee also licensed for wine growler delivery as set forth in §60-8-6c of the code, or nonintoxicating beer or nonintoxicating craft beer growler delivery as set forth in §11-16-6d of the code, the total convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler shall not exceed five dollars.

(e) Craft Cocktail Growler Delivery Requirements. -

(1) Delivery persons employed for the delivery of a sealed craft cocktail growler shall be 21 years of age or older. The licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) The licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication. The licensee shall submit certification of the training to the commissioner;

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

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

(5) The licensee may only deliver prepared food or a meal, and a sealed craft cocktail growler to addresses located in West Virginia. The licensee shall account for and pay all sales and municipal taxes;

(6) The licensee may not deliver prepared food or a meal, and a sealed craft cocktail growler to any other licensee;

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

(8) The licensee shall not deliver and leave the prepared food or a meal, and a sealed craft cocktail growler at any address without verifying a person's age and identification as required by this section.

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

(1) The delivery person may only permit the person who placed the order through telephone order, a mobile ordering application, or web-based software to accept the prepared food or meal and a craft cocktail growler delivery, subject to verification upon delivery with the delivery person's visual reviewing, verifying, and collecting a stored scanned image, of the purchasing person's legal identification;

(2) Any mobile ordering application or web-based software used shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by

the delivery driver for verification, and shall include the delivery driver's name and vehicle information;

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

(4) All records are subject to inspection by the commissioner. The licensee shall retain records for three years, and may not unreasonably withhold the records from the commissioner's inspection; and

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

(g) *Private Cocktail Delivery Permit.* -

(1) Each private delivery vehicle, whose driver is 21 years of age or older, shall have a permit for the delivery of the prepared food or a meal, and a sealed craft cocktail growler, subject to the requirements of this article.

(2) A third party private delivery licensee, a private club restaurant, or private manufacturer club licensee shall provide vehicle and driver information, requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner as soon as possible.

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

(h) *Enforcement.* -

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

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

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

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

§60-7-12. Certain acts of licensee prohibited; criminal penalties.

(a) It is unlawful for any licensee, or agent, employee or member thereof, on such licensee's premises to:

(1) Sell, offer for sale, tender, or serve any alcoholic liquors other than by the drink poured from the original package or container, except as authorized in §60-6-8 of this code;

(2) Authorize or permit any disturbance of the peace, obscene, lewd, immoral, or improper entertainment, conduct, or practice, gambling or any slot machine, multiple coin console machine, multiple coin console slot machine, or device in the nature of a slot machine; however, various games, gaming, and wagering conducted by duly licensed persons of the West Virginia State Lottery Commission, charitable bingo games conducted by a duly licensed charitable or public service organization (or its auxiliaries), pursuant to §47-20-1 *et seq.* of this code, and charitable raffle games conducted by a duly licensed charitable or public service organization (or its auxiliaries), pursuant to §47-21-1 *et seq.* of this code, all of which are permissible on a licensee's licensed premises when operated in accordance with this code, ~~rules, and regulations: *Provided*, That a~~ and rules promulgated thereunder. A private resort hotel holding a license issued pursuant to §60-7-1 *et seq.* of this code, may sell, tender, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on the premises licensed under §29-22A-1 *et seq.* and §29-22C-1 *et seq.*, or §29-25-1 *et seq.* of this code, during hours of operation authorized by §29-22A-1 *et seq.* and §29-22C-1 *et seq.*, or §29-25-1 *et seq.* of this code;

(3) Sell, give away, or permit the sale of, gift to, or the procurement of any nonintoxicating beer, wine, or alcoholic liquors for or to, or permit the consumption of nonintoxicating beer, wine, or alcoholic liquors on the licensee's premises, by any person less than 21 years of age;

(4) Sell, give away, or permit the sale of, gift to, or the procurement of any nonintoxicating beer, wine, or alcoholic liquors, for or to any person known to be ~~deemed~~ considered legally incompetent, or for or to any person who is physically incapacitated due to consumption of nonintoxicating beer, wine or alcoholic liquor or the use of drugs;

(5) Sell, give, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on any licensed premises, or in any rooms directly connected therewith between the hours of 3:00 a.m. and ~~7:00~~ 6:00 a.m. on weekdays, ~~or Saturdays, and Sundays, between the hours of 3:00 a.m. and 10:00 a.m. on any Sunday~~ or, between the hours of 3:00 a.m. and 1:00 p.m. in any county upon approval as provided for in §7-1-3ss of this code, on any Sunday; and

(6) Permit the consumption by, or serve to, on the licensed premises any nonintoxicating beer, wine, or alcoholic liquors, covered by this article, to any person who is less than 21 years of age;

(7) With the intent to defraud, alter, change, or misrepresent the quality, quantity, or brand name of any alcoholic liquor;

(8) Sell or offer for sale any alcoholic liquor to any person who is not a duly elected or approved dues-paying member in good standing of ~~said~~ the private club or a guest of ~~such~~ the member;

(9) Sell, offer for sale, give away, facilitate the use of or allow the use of carbon dioxide, cyclopropane, ethylene, helium, or nitrous oxide for purposes of human consumption, except as authorized by the commissioner;

(10)(A) Employ any person who is less than ~~48~~ 16 years of age in a position where the primary responsibility for such employment is to sell, furnish, tender, serve, or give nonintoxicating beer, wine, or alcoholic liquors to any person;

(B) Employ any person who is ~~between the ages of~~ at least 16 years of age and not 21 years of age who is not directly supervised by a person aged 21 or over in a position where the primary responsibility for such employment is to sell, furnish, tender, serve or give nonintoxicating beer, wine, or alcoholic liquors to any person; or

(11) Violate any reasonable rule of the commissioner.

(b) It is lawful for any licensee to advertise price and brand in any news media or other means, outside of the licensee's premises.

(c) Any person who violates any of the ~~foregoing~~ provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000, or imprisoned in jail for a period not to exceed one year, or both fined and imprisoned.

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.

“Fortified wine” means any wine to which brandy or other alcohol has been added where the alcohol content by volume does not exceed 24 percent, and ~~shall include~~ includes nonfortified dessert wines which are not fortified having an alcohol content by volume of at least fourteen and one-tenths percent and not exceeding sixteen percent where the alcohol content by volume is greater than 17 percent and does not exceed 24 percent.

“Grocery store” means any retail establishment, commonly known as a grocery store, supermarket, delicatessen, caterer, or party supply store, where food, food products, and supplies for the table are sold for consumption off the premises with average monthly sales (exclusive of sales of wine) of not less than \$500 and an average monthly inventory (exclusive of inventory of

wine) of not less than ~~\$500~~ ~~\$3,000~~. The term “grocery store” ~~shall also include and mean also includes and means~~ a separate and segregated portion of any other retail store which is dedicated solely to the sale of food, food products, and supplies for the table for consumption off the premises with average monthly sales with respect to ~~such the~~ separate or segregated portion (exclusive of sales of wine) of not less than ~~\$3,000~~ ~~\$500~~ and an average monthly inventory (exclusive of inventory of wine) of not less than ~~\$3,000~~ ~~\$500~~.

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

“Hard Cider 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 hard cider (but not other types of wine) to retailers, grocery stores, private wine bed and breakfasts, private wine restaurants, private wine spas, private clubs, or wine specialty shops under authority of this code and maintains a warehouse in this state for the distribution of hard cider (but not other types of wine). For the purpose of a hard cider distributor, 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 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 14.1 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 ~~such 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 ~~such~~ 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. ~~Such~~ Private clubs that meet the private wine restaurant requirements numbered (1), (2), and (3) in this definition shall be considered private wine restaurants: Provided, That, a private wine restaurant shall have at least two restrooms: Provided, however, That the two restroom requirement may be waived by a written waiver provided from a local health department to the commissioner: Provided, further, That a private wine restaurant located in an historic building may also be relieved of the two restroom requirement if a historic association or district with jurisdiction over a historic building provides a written waiver of the requirement to the commissioner: And Provided, further, That in no event shall a private wine restaurant have less than one restroom.

Private wine spa” means any business with the sole purpose of providing commercial facilities devoted especially to health, fitness, weight loss, beauty, therapeutic services, and relaxation, and may ~~be also~~ also be a licensed massage parlor or a salon with licensed beauticians or stylists, 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 up to two glasses of wine to its members and their guests when ~~such~~ 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.

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

“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 14 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 ~~such~~ the wine is made.

“Vintage wine” or “vintage-dated wine” means wines from which the grapes used to produce ~~such~~ 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 ~~and~~ to which no alcohol has been added and ~~shall exclude fortified wine and shall also exclude any product defined as or embraced within the definition of nonintoxicating beer under the provisions~~

of article sixteen, chapter eleven of this code 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 ~~shall deal~~ deals principally in the sale of table wine, nonfortified dessert wines, wine accessories, and food or foodstuffs normally associated with wine and: (1) Who ~~shall maintain~~ maintains a representative number of such 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 percent alcohol by volume and which have been matured in wooden barrels or casks. All wine available for sale shall be for off-premises consumption except where wine tasting or wine sampling is separately authorized by this code.

§60-8-3. Licenses; fees; general restrictions.

(a) No person may engage in business in the capacity of a winery, farm winery, supplier, distributor, retailer, private wine bed and breakfast, private wine restaurant, private wine spa, or wine specialty shop without first obtaining a license from the commissioner, nor shall a person continue to engage in any activity after his or her license has expired, been suspended, or revoked. No person may be licensed simultaneously as a distributor and a retailer. No person, except for a winery or farm winery, may be licensed simultaneously as a supplier and a retailer. No person may be licensed simultaneously as a supplier and a private wine bed and breakfast, private wine restaurant, or a private wine spa. No person may be licensed simultaneously as a distributor and a private wine bed and breakfast, a private wine restaurant, or a private wine spa. No person may be licensed simultaneously as a retailer and a private wine bed and breakfast, a private wine restaurant, or a private wine spa. Any person who is licensed to engage in any business concerning the manufacture, sale, or distribution of wine may also engage in the manufacture, sale, or distribution of hard cider without obtaining a separate hard cider license.

(b) The commissioner shall collect an annual fee for licenses issued under this article as follows:

(1) \$150 per year for a supplier’s license;

(2) \$2,500 per year for a distributor’s license and each separate warehouse or other facility from which a distributor sells, transfers, or delivers wine shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$2,500 as provided in this subdivision;

(3) \$150 per year for a retailer’s license;

(4) \$250 per year for a wine specialty shop license, in addition to any other licensing fees paid by a winery or retailer holding a license. Except for the amount of the license fee and the restriction to sales of winery or farm winery wines, a winery, or farm winery acting as a wine specialty shop retailer is subject to all other provisions of this article which are applicable to a wine specialty shop retailer as defined in §60-8-2 of this code;

(5) \$150 per year for a wine tasting license;

(6) \$150 per year for a private wine bed and breakfast license. Each separate bed and breakfast from which a licensee sells wine shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$150 as provided in this subdivision;

(7) \$250 per year for a private wine restaurant license. Each separate restaurant from which a licensee sells wine shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$250 as provided in this subdivision;

(8) \$150 per year for a private wine spa license. Each separate private wine spa from which a licensee sells wine shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$150 as provided in this subdivision;

(9) \$150 per year for a wine sampling license issued for a wine specialty shop under subsection (n) of this section;

(10) No fee shall be charged for a special one-day license under subsection (p) of this section or for a heritage fair and festival license under subsection (q) of this section;

(11) \$150 per year for a direct shipper's license for a licensee who sells and ships only wine and \$250 per year for a direct shipper's license who ships and sells wine, nonfortified dessert wine, port, sherry, or Madeira wines; ~~and~~

(12) \$300 per year for a multi-capacity winery or farm winery license which enables the holder to operate as a retailer, wine specialty shop, supplier, and direct shipper without obtaining an individual license for each capacity; and

(13) \$250 per year for a hard cider distributor's license. Each separate warehouse or other facility from which a distributor sells, transfers, or delivers hard cider shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$250 as provided in this subdivision: *Provided*, That if a licensee is licensed as a nonintoxicating beer or nonintoxicating beer distributor then there is no additional license fee to distribute hard cider.

(c) The license period begins on July 1 of each year and ends on June 30 of the following year and if granted for a less period, the same shall be computed semiannually in proportion to the remainder of the fiscal year.

(d) No retailer may be licensed as a private club as provided by §60-7-1 *et seq.* of this code, except as provided by subsection (k) of this section.

(e) No retailer may be licensed as a Class A retail dealer in nonintoxicating beer as provided by §11-16-1 *et seq.* of this code: *Provided*, That a delicatessen, a caterer, or party supply store which is a grocery store as defined in §60-8-2 of this code and which is licensed as a Class A retail dealer in nonintoxicating beer may be a retailer under this article: *Provided, however*, That any delicatessen, caterer, or party supply store licensed in both capacities ~~must~~ shall maintain average monthly sales exclusive of sales of wine and nonintoxicating beer which exceed the average monthly sales of nonintoxicating beer.

(f) A wine specialty shop under this article may also hold a wine tasting license authorizing the retailer to serve complimentary samples of wine in moderate quantities for tasting. ~~Such~~ The wine specialty shop shall organize a wine taster's club, which has at least 50 duly elected or

approved dues-paying members in good standing. ~~Such~~ The club shall meet on the wine specialty shop's premises not more than one time per week and shall either meet at a time when the premises are closed to the general public or shall meet in a separate segregated facility on the premises to which the general public is not admitted. Attendance at tastings shall be limited to duly elected or approved dues-paying members and their guests.

(g) A retailer who has more than one place of retail business shall obtain a license for each separate retail establishment. A retailer's license may be issued only to the proprietor or owner of a bona fide grocery store or wine specialty shop.

(h)(1) The commissioner may issue a license for the retail sale of wine at any festival or fair which is endorsed or sponsored by the governing body of a municipality or a county commission. ~~Such~~ The license shall be issued for a term of no longer than 10 consecutive days and the fee for the license shall be is \$250 regardless of the term of the license. The application for the license shall contain information required by the commissioner and shall be submitted to the commissioner at least 30 days prior to the first day when wine is to be sold at the festival or fair.

(2) Notwithstanding subdivision (1) of this subsection, if the applicant for the festival or fair license is the manufacturer of ~~said~~ the wine, a winery, or a farm winery as defined in §60-1-5a of this code, and the event is located on the premises of a winery or a farm winery, then the license fee is \$50 per festival or fair.

(3) A licensed winery or a farm winery, which has the festival or fair licensee's written authorization and approval from the commissioner, may, in addition to or in conjunction with the festival and fair licensee, exhibit, conduct complimentary tastings, or sell samples not to exceed three, two-fluid ounce, tastings or samples per patron, for consumption on the premises during the operation of a festival or fair only; and may sell wine for off-premises consumption only: *Provided*, That for licensed wineries or farm wineries at a licensed festival or fair the tastings, samples and off-premises sales shall occur under the hours of operation as required in this article, except on Sunday, tastings, samples, and off-premises sales are unlawful between the hours of 2:00 a.m. and ~~40:00~~ 6:00 a.m.

(4) A festival or fair license may be issued to a "wine club" as defined in this subdivision for a license fee of \$250. The festival or fair committee or the governing body shall designate a person to organize a club under a name which includes the name of the festival or fair and the words "wine club". The license shall be issued in the name of the wine club. A licensee ~~may not commence the sale of~~ sell wine as provided in this subdivision until the wine club has at least 50 dues-paying members who have been enrolled, and to whom membership cards have been issued. Thereafter, new members may be enrolled and issued membership cards at any time during the period for which the license is issued. A wine club licensed under the provisions of this subdivision may sell wine only to its members, and in portions not to exceed eight ounces per serving. The sales shall take place on premises or in an area cordoned or segregated so as to be closed to the general public, and the general public shall not be admitted to the premises or area. A wine club licensee under the provisions of this subdivision may serve complimentary samples of wine in moderate quantities for tasting. A wine club may not make wine purchases from a direct shipper where the wine may be consumed on the licensed premises of any Class A private wine retail license or private club. A wine club which violates the provisions of this subdivision is subject to the penalties in this article.

(5) A licensed winery or farm winery approved to participate in a festival or fair under the provisions of this section and the licensee holding the license, or the licensed winery or farm

winery approved to attend a licensed festival or fair, is subject to all other provisions of this article and the rules and orders of the commissioner relating to the license: *Provided*, That the commissioner may by rule or order provide for certain waivers or exceptions with respect to the provisions, rules, or orders as required by the circumstances of each festival or fair ~~may require~~, including, without limitation, the right to revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding the provisions §60-8-27 and §60-8-28 of this code: *Provided, however*, That under no circumstances shall the provisions of §60-8-20(c) or §60-8-20(d) of this code, be waived nor shall any exception be granted with respect to those subsections.

(6) A license issued under the provisions of this section and the licensee holding the license are not subject to the provisions of subsection (g) of this section.

(7) An unlicensed winery temporarily licensed and meeting the requirements set forth in subsection (q) of this section may conduct the same sampling and sales set forth in subsection (q) of this section at a licensed fair and festival upon approval of the licensee holding the fair and festival license and temporary and limited licensure by the commissioner. An unlicensed winery ~~shall be~~ is subject to the same limits, fees, requirements, restrictions and penalties set forth in subsection (q) of this section: *Provided*, That the commissioner may by rule or order provide for certain waivers or exceptions with respect to the provisions, rules, or orders as required by the circumstances of each festival or fair. ~~may require, including, without limitation, the right to~~ The commissioner may revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding the provisions §60-8-27 and §60-8-28 of this code: *Provided, however*, That under no circumstances shall the provisions of §60-8-20(c) or §60-8-20(d) of this code be waived nor shall any exception be granted with respect to those subsections.

(i)(1) The commissioner may issue a special license for the retail sale of wine in a professional baseball stadium. A license to sell wine granted pursuant to this subsection entitles the licensee to sell and serve wine, for consumption in a professional baseball stadium. For the purpose of this subsection, "professional baseball stadium" means a facility constructed primarily for the use of a major or minor league baseball franchisee affiliated with the National Association of Professional Baseball Leagues, Inc., or its successor, and used as a major or minor league baseball park. Any special license issued pursuant to this subsection shall be for a term beginning on the date of issuance and ending on the next following June 30, and its fee is \$250 regardless of the length of the term of the license. The application for the special license shall contain information required by the commissioner and must be submitted to the commissioner at least 30 days prior to the first day when wine is to be sold at the professional baseball stadium. The special license may be issued in the name of the baseball franchisee or the name of the primary food and beverage vendor under contract with the baseball franchisee. These sales must take place within the confines of the professional baseball stadium. The exterior of the area where wine sales may occur ~~must~~ shall be surrounded by a fence or other barrier prohibiting entry except upon the franchisee's express permission, and under the conditions and restrictions established by the franchisee, so that the wine sales area is closed to free and unrestricted entry by the general public.

(2) A license issued under this subsection and the licensee holding the license are subject to all other provisions of this article and the rules and orders of the commissioner relating to the special license: *Provided*, That the commissioner may by rule or order grant certain waivers or exceptions to those rules or orders as ~~required by~~ the circumstances of each professional baseball stadium ~~may require, including, without limitation, the right to~~ The commissioner may revoke or suspend any license issued pursuant to this section prior to any notice or hearing

notwithstanding §60-8-27 and §60-8-28 of this code; ~~and~~ *Provided, however,* That under no circumstances may §60-8-20(c) or §60-8-20(d) of this code be waived nor shall any exception be granted concerning those subsections.

(3) The commissioner may propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to implement this subsection.

(j) A license to sell wine granted to a private wine bed and breakfast, private wine restaurant, private wine spa, or a private club under the provisions of this article entitles the operator to sell and serve wine, for consumption on the premises of the licensee, when the sale accompanies the serving of food or a meal to its members and their guests in accordance with the provisions of this article: *Provided,* That a licensed private wine bed and breakfast, private wine restaurant, private wine spa, or a private club may permit a person over 21 years of age to purchase wine, consume wine, and recork or reseal, using a tamper resistant cork or seal, up to two separate bottles of unconsumed wine in conjunction with the serving of food or a meal to its members and their guests in accordance with the provisions of this article and in accordance with rules promulgated by the commissioner for the purpose of consumption of ~~said~~ the wine off premises: *Provided, however,* ~~That for this article, food or a meal provided by the private licensee means that the total food purchase, excluding beverage purchases, taxes, gratuity, or other fees is at least \$15:~~ *Provided further,* That a licensed private wine restaurant or a private club may offer for sale, for consumption off the premises, sealed bottles of wine to its customers provided that no more than one bottle is sold per each person over 21 years of age, as verified by the private wine restaurant or private club, for consumption off the premises. ~~Such~~ The licensees ~~are authorized to~~ may keep and maintain on their premises a supply of wine in quantities appropriate for the conduct of operations thereof. Any sale of wine is subject to all restrictions set forth in §60-8-20 of this code. A private wine restaurant may also be licensed as a Class A retail dealer in nonintoxicating beer as provided by §11-16-1 *et seq.* of this code.

(k) With respect to subsections (h), (i), (j), (o), and (p) of this section, the commissioner shall propose rules for promulgation in accordance with §29A-1-1 *et seq.* of this code, including, but not limited to, the form of the applications and the suitability of both the applicant and location of the licensed premises.

(l) The commissioner shall propose rules for promulgation in accordance with the provisions of §29A-1-1 *et seq.* of this code to allow restaurants to serve wine with meals and to sell wine by the bottle for off-premises consumption as provided in subsection (j) of this section. Each licensed restaurant shall be charged an additional \$100 per year fee.

(m) The commissioner shall establish guidelines to permit wines to be sold in all stores licensed for retail sales.

(n) Wineries and farm wineries may advertise off premises as provided in §17-22-7 of this code.

(o) A wine specialty shop under this article may also hold a wine sampling license authorizing the wine specialty shop to conduct special wine sampling events at a licensed wine specialty shop location during regular hours of business. The wine specialty shop may serve up to three complimentary samples of wine, consisting of no more than two fluid ounces each, to any one consumer in one day. Persons serving the complimentary samples ~~must~~ shall be 21 years of age or older and an authorized representative of the licensed wine specialty shop, winery, farm winery, or a representative of a distributor or registered supplier. Distributor and supplier representatives

attending wine sampling events ~~must be registered~~ shall register with the commissioner. No licensee, employee, or representative may furnish, give, sell, or serve complimentary samples of wine to any person less than 21 years of age or to a person who is physically incapacitated due to the consumption of alcoholic liquor or the use of drugs. The wine specialty shop shall notify and secure permission from the commissioner for all wine sampling events ~~one month~~ 30 days prior to the event. Wine sampling events may not exceed six hours per calendar day. Licensees ~~must~~ shall purchase all wines used during these events from a licensed farm winery or a licensed distributor.

(p) The commissioner may issue special one-day licenses to duly organized, nonprofit corporations and associations allowing the sale and serving of wine, and may, if applicable, also allow the charitable auctioning of certain sealed bottles of wine for off-premises consumption only, when raising money for athletic, charitable, educational, or religious purposes. "Auction or auctioning", for the purposes of this subsection, means any silent, physical act, or verbal bid auction, whether or not ~~such~~ the auction requires in-presence bidding or online Internet-based electronic bidding through a secure application or website, but shall not include any action in violation of §47-20-10, §47-20-11, or §61-10-1 *et seq.* of this code. The license application shall contain information required by the commissioner and shall be submitted to the commissioner at least 30 days prior to the event. Accompanying the license application, the applicant shall submit a signed and notarized statement that at least 80 percent of the gross proceeds from the charitable event will be donated directly to the nonprofit corporation or organization before accounting for the charitable event's expenses. Wines used during these events may be donated by, or purchased from, a licensed retailer, a distributor, winery, or a farm winery. A licensed winery or farm winery which is authorized in writing by a representative of the duly organized, nonprofit corporation ~~and~~ or association which has obtained the one-day license; is in good standing with the state; and obtains the commissioner's approval prior to the one-day license event may, in conjunction with the one-day licensee, exhibit, conduct complimentary tastings, or sell samples not to exceed ~~of~~ three, two-fluid ounce tastings or samples per patron, for consumption on the premises during the operation of the one-day license event; and may sell certain sealed wine bottles manufactured by the licensed winery or farm winery for off-premises consumption: *Provided*, That for a licensed winery or farm winery at a licensed one-day event, the tastings, samples and off-premises sales shall occur under the hours of operation ~~as required in~~ permitted by this article, except on Sunday, tastings, samples, and off-premises sales are unlawful between the hours of 2:00 a.m. and ~~4:00~~ 6:00 a.m., from the one-day licensee's submitted floor plan for the event subject to the requirements in the code and rules. Under no circumstances may the provisions of §60-8-20(c) or §60-8-20(f) of this code be waived nor may any exception be granted with respect to those subsections. ~~No more than six licenses may be issued to any single licensee during any calendar year.~~

(q) (1) In addition to the authorization granted to licensed wineries and farm wineries in subsections (h) and (p) of this section, an unlicensed winery, regardless of its designation in another state, but that is duly licensed in its domicile state, may pay a \$150 nonrefundable and non-prorated fee and submit an application for temporary licensure on a one-day basis for temporary sampling and sale of wine in sealed containers for off-premises consumption at a special one-day license nonprofit event.

(2) The application shall include, but is not limited to, the person or entity's name, address, taxpayer identification number, and location; a copy of its licensure in its domicile state; a signed and notarized verification that it produces 50,000 gallons or less of wine per year; a signed and notarized verification that it is in good standing with its domicile state; copies of its federal certificate of label approvals and certified lab alcohol analysis for the wines it desires to

temporarily provide samples and temporarily sell wine in sealed containers for off-premises consumption at a special one-day license for a nonprofit event issued under subsection (p) of this section; and ~~such~~ any other information as the commissioner may reasonably require.

(3) The applicant winery shall include a list of all wines proposed to be temporarily sampled and temporarily sold in sealed containers at a special one-day license for a nonprofit event so that the wines may be reviewed in the interest of public health and safety. Once approved, the submitted wine list ~~will create~~ creates a temporary wine brand registration for up to two special one-day ~~license~~ licenses for a nonprofit event for no additional fee.

(4) An applicant winery that receives this temporary special one-day license for a nonprofit event ~~will provide~~ shall provide the commissioner a signed and notarized written agreement ~~where the applicant winery agrees~~ acknowledging that the applicant winery understands its responsibility to pay all municipal, local, and sales taxes applicable to the sale of wine in West Virginia.

(5) An application must be submitted per special one-day license for a nonprofit event the applicant winery desires to attend, and the license fee shall cover up to two special one-day license for nonprofit events before an additional fee would be ~~paid~~ is required. In no circumstance would ~~such a~~ the winery be permitted to attend more than four special one-day ~~license for nonprofit events per year~~ licensed events. Any ~~such~~ applicant or unlicensed winery desiring to attend more than four special one-day license for nonprofit events per year or otherwise operate in West Virginia would need to seek appropriate licensure as a winery or a farm winery in this state.

(6) Notwithstanding the provisions of this article and requirements for licensure, wine brand registration, payment of wine liter tax, and the winery's appointment of suppliers and distributors, this temporary special one-day license for a nonprofit event, once granted, permits ~~such~~ a winery to operate in this limited capacity only at the approved specific, special one-day license for a nonprofit event subject to the limitations ~~noted~~ contained in this section.

(7) The applicant winery ~~will need to further~~ shall also apply for and receive a transportation permit ~~in order~~ to legally transport wine in the state per §60-6-12 of this code.

(8) The applicant winery is subject to all applicable violations and/or penalties under this article and the legislative rules that ~~is~~ are not otherwise excepted by this subsection: *Provided*, That the commissioner may by rule or order provide for certain waivers or exceptions with respect to the provisions, rules, or orders as required by the circumstances of each festival or fair. ~~may require, including, without limitation, the right to~~ The commissioner may revoke or suspend any license issued pursuant to this ~~section~~ article, prior to any notice or hearing.

(r) The commissioner may issue special licenses to heritage fairs and festivals allowing the sale, serving, and sampling of wine from a licensed farm winery. The license application shall contain information required by the commissioner and shall be submitted to the commissioner at least 30 days prior to the event. Wines used during these events may be donated by or purchased from a licensed farm winery. Under no circumstances may the provision of §60-8-20(c) of this code be waived nor may any exception be granted with respect thereto. The commissioner shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement the provisions of this subsection.

(s)(1) The commissioner may issue a special license for the retail sale of wine in a college stadium. A license to sell wine granted pursuant to this subsection entitles the licensee to sell and

serve wine for consumption in a college stadium. For the purpose of this subsection, "college stadium" means a facility constructed primarily for the use of a Division I, II, or III college that is a member of the National Collegiate Athletic Association, or its successor, and used as a football, basketball, baseball, soccer, or other Division I, II, or III sports stadium. A special license issued pursuant to this subsection shall be for a term beginning on the date of its issuance and ending on the next following June 30, and its fee is \$250 regardless of the length of the term of the license. The application for the special license shall contain information required by the commissioner and must be submitted to the commissioner at least 30 days prior to the first day when wine is to be sold. The special 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. ~~These~~ All sales must take place within the confines of the college stadium: *Provided*, That the exterior of the area where wine sales may occur ~~must~~ 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 wine sales area is closed to free and unrestricted entry by the general public.

(2) A license issued under this subsection and the licensee are subject to the other requirements of this article and the rules and orders of the commissioner relating to the special license: *Provided*, That the commissioner may by rule or order grant certain waivers or exceptions to those rules or orders as required by the circumstances of each the college stadium. ~~may require, including, without limitation, the right to~~ The commissioner may revoke or immediately suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding §60-8-27 and §60-8-28 of this code: *Provided, however*, That §60-8-20(c) or §60-8-20(d) of this code may not be waived, nor shall any exception be granted concerning those subsections.

(3) The commissioner may propose rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to implement this subsection.

§60-8-4. Liter tax.

There is hereby levied and imposed on all wine sold after July 1, 2007, by suppliers to distributors, and including all wine sold and sent ~~to West Virginia adult residents~~ to persons 21 years of age or older who reside in West Virginia from direct shippers, except wine sold to the commissioner, a tax of twenty-six and four hundred six-thousandths cents per liter. Effective July 1, 2021, hard cider is excepted from this per liter tax and is taxed pursuant to §60-8A-3 of this code.

Before the 16th day of each month thereafter, every supplier, distributor and direct shipper shall make a written report under oath to the Tax Commissioner and the commissioner showing the identity of the purchasing person, the quantity, label and alcoholic content of wine sold by the supplier to West Virginia distributors or the direct shipper ~~to West Virginia adult residents~~ to persons 21 years of age or older who reside in West Virginia during the preceding month and at the same time shall pay the tax imposed by this article on the wine sold to the distributor or ~~the West Virginia adult residents~~ or to persons 21 years of age or older who reside in West Virginia during the preceding month to the Tax Commissioner.

The reports shall contain other information and be in the form required by the Tax Commissioner ~~may require~~. For purposes of this article, the reports required by this section shall be considered tax returns covered by the provisions of §11-10-1 *et seq.* of this code. Failure to

timely file the tax returns within five calendar days of the 16th day of each month ~~will also subject~~ also subjects a supplier, distributor, and direct shipper to penalties under §60-8-18 of this code.

No wine imported, sold, or distributed in this state or sold and shipped to this state by a direct shipper shall be subject to more than one liter tax.

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

(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 wine 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 winery or farm winery with its principal place of business and manufacture located in this state to have certain abilities to promote the sale of wine manufactured in this state for the benefit of the citizens of this state, the state's growing wine industry, and the state's hospitality and tourism industry, all of which are vital components for the state's economy.

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

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

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

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

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

(g) Wine growler defined. — For purposes of this section and section §60-8-6d of the code, "Wine Growler" means a container or jug that is made of glass, ceramic, metal, or other material approved by the commissioner, that may be no larger than 128 fluid ounces in size and is capable of being securely sealed. The growler may be used by by an authorized licensee for purposes of

off-premises sales only of wine for personal consumption, and not for resale. Notwithstanding any other provision of this code to the contrary, a securely sealed wine growler is not an open container under state and local law. A wine 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. For purpose of this article, a secure seal 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 wine 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 wine growler is opened.

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

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

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

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

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

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

§60-8-6d. Wine retailer, wine specialty shop, private wine restaurant, private wine bed and breakfast, private wine spa, Class B retail dealer, private club restaurant, private manufacturer club, Class A retail licensee, and Class B retail licensee's authority to sell wine 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 wine 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 wine retailer, wine specialty shop, private wine restaurant, private wine bed and breakfast, private wine spa, private club restaurant, private manufacturer club, Class A retail licensee, or Class B retail licensee to have certain abilities in order to promote the sale of wine manufactured in this state for the benefit of the citizens of this state, the state's growing wine industry, and the state's hospitality and tourism industry, all of which are vital components for the state's economy.

(b) *Sales of wine.* — A licensed wine retailer, wine specialty shop, private wine restaurant, private wine bed and breakfast, private wine spa, private club restaurant, private manufacturer club, Class A retail licensee, or Class B retail licensee who pays the fee in subsection (h) of this section and meets the requirements of this section may offer wine for retail sale to patrons from the licensed premises in a sealed wine growler for personal consumption off of the licensed premises, and not for resale. Prior to the sale, the licensee shall verify, using proper identification, that any patron purchasing wine is 21 years of age or over and that the patron is not visibly intoxicated. There non-prorated, non-refundable annual fee to sell wine growlers is \$100.

(c) *Retail sales.* — Every licensee authorized under this section shall comply with all the provisions of this article as applicable to wine retailers when conducting sales of wine in a wine growler and is subject to all applicable requirements and penalties in this article.

(d) *Payment of taxes and fees.* — A licensee authorized under this section shall pay all taxes and fees required of licensed wine retailers, in addition to any other taxes and fees required, and meet applicable licensing provisions as required by this chapter and by rule of the commissioner.

(e) *Advertising.* — A licensee authorized under this section may advertise a particular brand or brands of wine and the price of the wine, subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance or target minors.

(f) *Wine Growler defined and requirements.* — A licensee authorized under this section shall use the wine growler definition and requirements in §60-8-6c(g) and §60-8-6c(h) of this code.

(g) *Wine Growler labeling and sanitation.* — A licensee authorized under this section shall label and sanitize wine growlers as set forth in §60-8-6c(i) and §60-8-6c(j) of this code.

(h) *Complimentary samples.* — A licensee authorized under this section may provide complimentary wine growler samples to a person intending to purchase a wine growler which may be no greater than two fluid ounces per wine growler sample and a wine growler sampling shall not exceed three complimentary two fluid ounce samples per patron per day. A licensee authorized under this section providing complimentary wine samples shall, prior to providing any samples, verify that the patron sampling wine is 21 years of age or older and that the patron is not visibly or noticeably intoxicated.

(i) *Limitations on licensees.* — A licensee under this section may only sell wine growlers during the hours of operation set forth in this article. Any licensee licensed under this section shall maintain a secure area for the sale and filling of wine in a wine growler. The secure area shall only be accessible by the licensee. Any licensee licensed under this section is subject to the applicable penalties under this article for violations.

(j) *Non-applicability of certain statutes.* — Notwithstanding any other provision of this article to the contrary, licensees under this section are permitted to break the seal of the original container for the limited purpose of filling a wine growler or providing complimentary wine samples as provided in this section. Any unauthorized sale of wine or any consumption not permitted on the licensee’s licensed premises is subject to penalties under this article.

(k) *Rules.* — The commissioner may propose legislative rules for legislative approval, pursuant to §29A-3-1 *et seq.* of this code, to implement this section.

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

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

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

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

(d) *Sale Requirements.* -

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

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

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

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

(5) A third-party private wine delivery licensee may not have a pecuniary interest in a Class A wine licensee, as set forth in this article. A third-party private wine delivery licensee may only charge a convenience fee for the delivery of wine as provided in this section. The third-party private wine delivery licensee may not collect a percentage of the delivery order for the delivery of alcohol but may collect a percentage of the delivery order directly related to prepared food or a meal. The convenience fee charged by the third-party private wine delivery licensee to the purchasing person may be no greater than five dollars per delivery order where wine is ordered by the purchasing person. For any third-party private wine delivery licensee also licensed for nonintoxicating beer or nonintoxicating craft beer growler delivery as set forth in §11-16-6d of the code or craft cocktail growler delivery as set forth in §60-7-8f of the code, the total convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler shall not exceed five dollars.

(e) Private Wine Delivery Requirements. -

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

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

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

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

(5) The third-party private wine delivery licensee may only deliver prepared food or a meal and sealed wine to addresses located in West Virginia. The third-party private wine delivery licensee shall account for and pay all sales and municipal taxes;

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

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

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

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

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

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

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

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

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

(g) *Private Wine Retail Transportation Permit.* -

(1) Each private wine delivery vehicle, whose driver is 21 years of age or older, may be permitted for the delivery of prepared food or a meal and wine subject to the requirements of this article.

(2) A Class A wine licensee or a third-party private wine delivery licensee shall provide vehicle and driver information, requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner as soon as possible.

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

(h) *Enforcement.* -

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

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

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

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

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

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

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

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

(d) Sale Requirements. -

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

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

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

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

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

(e) Private Wine Delivery Requirements. -

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

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

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

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

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

(6) A third-party private wine delivery licensee may not deliver prepared food and sealed wine to any other wine licensees;

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

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

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

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

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

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

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

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

(g) Private Wine Retail Transportation Permit. -

(1) Each private wine delivery vehicle, whose driver is 21 years of age or older, may be permitted for the delivery of prepared food and wine subject to the requirements of this article.

(2) A Class B wine licensee or third-party private wine delivery licensee shall provide vehicle and driver information requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner as soon as possible.

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

(h) Enforcement. -

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

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

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

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

§60-8-18. Revocation, suspension, and other sanctions which may be imposed by the commissioner upon the licensee; procedure for appealing any final order of the commissioner which revokes, suspends, sanctions, or denies the issuance or renewal of any license issued under this article.

(a) The commissioner may on his or her own motion, or shall on the sworn complaint of any person, conduct an investigation to determine if any provisions of this article or any rule promulgated or any order issued by the commissioner has been violated by any licensee. After investigation, the commissioner may impose penalties and sanctions as set forth ~~below~~ in this section.

(1) If the commissioner finds that the licensee has violated any provision of this article or any rule promulgated or order issued by the commissioner, or if the commissioner finds the existence of any ground on which a license could have been refused, if the licensee were then applying for a license, the commissioner may:

(A) Revoke the licensee's license;

(B) Suspend the licensee's license for a period determined by the commissioner not to exceed 12 months; ~~or~~

(C) Place the licensee on probation for a period not to exceed 12 months; ~~and or~~

(D) Impose a monetary penalty not to exceed \$1,000 for each violation where revocation is not imposed.

(2) If the commissioner finds that a licensee has willfully violated any provision of this article or any rule promulgated or any order issued by the commissioner, the commissioner shall revoke the licensee's license.

~~(b) If a supplier or distributor fails or refuses to keep in effect the bond required by §60-8-29 of this article, the commissioner shall automatically suspend the supplier or distributor's license until the bond required by §60-8-20 of this article is furnished to the commissioner, at which time the commissioner shall vacate the suspension~~

~~(e)~~(b) Whenever the commissioner refuses to issue a license, or suspends or revokes a license, places a licensee on probation, or imposes a monetary penalty, he or she shall enter an order to that effect and cause a copy of the order to be served in person or by certified mail, return receipt requested, on the licensee or applicant.

~~(d)~~(c) An applicant or licensee, as the case may be, adversely affected by the order has a right to a hearing before the commissioner if a written demand for hearing is served upon the commissioner within 10 days following the receipt of the commissioner's order by the applicant or licensee. Timely service of a demand for a hearing upon the commissioner operates to suspend the execution of the order with respect to which a hearing has been demanded, except an order suspending a license under the provisions of §60-8-29 of this code. The person demanding a hearing shall give security for the cost of the hearing in a form and amount as required by the commissioner ~~may reasonably require~~. If the person demanding the hearing does not substantially prevail in the hearing or upon judicial review thereof as provided in subsections ~~(g)~~(f) and ~~(h)~~(g) of this section, then the costs of the hearing shall be assessed against him or her by the commissioner and may be collected by an action at law or other proper remedy.

~~(e)~~(d) Upon receipt of a timely served written demand for a hearing, the commissioner shall immediately set a date for the hearing and notify the person demanding the hearing of the date, time, and place of the hearing, which shall be held within 30 days after receipt of the demand. At the hearing, the commissioner shall hear evidence and thereafter enter an order supporting by findings of facts, affirming, modifying, or vacating the order. Any such order is final unless vacated or modified upon judicial review.

~~(f)~~(e) The hearing and the administrative procedure prior to, during, and following the hearing shall be governed by and in accordance with the provisions of §29A-5-1 *et seq.* of this code.

~~(g)~~(f) Notwithstanding the provisions of §29A-5-4(b) of this code, an applicant or licensee adversely affected by a final order entered following a hearing has the right of to judicial review of the order code in the Circuit Court of Kanawha County or the circuit court in the county where the proposed or licensed premises is located and will or does conduct sales: *Provided*, That in all other respects, ~~such~~ the review shall be conducted in the manner provided in chapter 29A of this code. The applicant or licensee shall file the petition for the review ~~must be filed~~ with the circuit court within 30 days following entry of the final order issued by the commissioner. An applicant or licensee obtaining judicial review is required to pay the costs and fees incident to transcribing, certifying, and transmitting the records pertaining to the matter to circuit court.

~~(h)~~(g) The judgment of the circuit court reviewing the order of the commissioner is final unless reversed, vacated, or modified on appeal to the Supreme Court of Appeals in accordance with the provisions of §29A-6-1 of this code.

~~(i)~~(h) Legal counsel and services for the commissioner in all proceedings in any circuit court and the Supreme Court of Appeals shall be provided by the Attorney General or his or her assistants and in any proceedings in any circuit court by the prosecuting attorney of that county as well, all without additional compensation.

§60-8-20. Unlawful acts generally.

It ~~shall be~~ is unlawful:

(a) For a supplier or distributor to sell or deliver wine purchased or acquired from any source other than a person registered under the provisions of section six of this article or for a retailer to sell or deliver wine purchased or acquired from any source other than a licensed distributor or a farm winery as defined in §60-1-5a of this code;

(b) Unless otherwise specifically provided by the provisions of this article, for a licensee under this article to acquire, transport, possess for sale or sell wine other than in the original package;

(c) For a licensee, his or her servants, agents or employees to sell, furnish or give wine to any person less than 21 years of age, or to a mental incompetent or person who is physically incapacitated due to the consumption of alcoholic liquor or the use of drugs: *Provided*, That the provisions of section §60-3A-25a of this code shall apply to sales of wine;

(d) For a licensee to permit a person who is less than 18 years of age to sell, furnish or give wine to any person, except as provided for in subsection (g) of this section;

(e) For a supplier or a distributor to sell or deliver any brand of wine purchased or acquired from any source other than the primary source of supply of the wine which granted the distributor

the right to sell the brand at wholesale. For the purposes of this article, "primary source of supply" means the vintner of the wine, the importer of a foreign wine who imports the wine into the United States, the owner of a wine at the time it becomes a marketable product, the bottler of a wine or an agent specifically authorized by any of the above-enumerated persons to make a sale of the wine to a West Virginia distributor: *Provided*, That no retailer shall sell or deliver wine purchased or acquired from any source other than a distributor or farm winery licensed in this state: *Provided, however*, That nothing herein is considered to prohibit sales of convenience between distributors licensed in this state wherein one distributor sells, transfers or delivers to another distributor a particular brand or brands for sale at wholesale, of which brand or brands the other distributor has been authorized by a licensed supplier to distribute. The commissioner shall promulgate legislative rules necessary to carry out the provision of this subsection;

(f) For a person to violate any reasonable rule promulgated by the commissioner under this article;

(g) Nothing in this article, nor any rule or regulation of the commissioner, shall prevent or be considered to prohibit any licensee from employing any person who is at least 18 years of age to serve in any licensee's lawful employment, including the sale ~~or delivery~~ of wine or distribution of wine on behalf of a winery, farm winery, farm entity, supplier, or distributor under the provisions of this article. With the prior approval of the commissioner, a licensee ~~whose principal business is the sale of food or consumer goods or the providing of recreational activities, including, but not limited to, nationally franchised fast food outlets, family-oriented restaurants, bowling alleys, drug stores, discount stores, grocery stores and convenience stores,~~ may employ persons who are less than 18 years of age but at least 16 years of age: *Provided*, That the person's duties may ~~not~~ include the sale ~~or delivery~~ of nonintoxicating beer or wine alcoholic liquors only when directly supervised by a person 21 years of age or older: *Provided, however*, That the authorization to employ persons ~~under the age of 18 years of age~~ shall be clearly indicated on the licensee's license: *Provided, further*, That nothing in this article, nor any rule or regulation of the commissioner, shall prevent or be considered to prohibit any licensee from employing any person who is at least 21 years of age for the ordering and delivery of wine when licensed for the ordering and delivery of wine under the provisions of this article.

§60-8-29. Bond Affidavit of compliance required of distributors and suppliers.

Each applicant for a distributor's license or a supplier's license shall furnish at the time of application ~~a bond with a corporate surety authorized to transact business in this State, payable to the State, and conditioned on the payment of all taxes and fees herein prescribed and on the faithful performance of and compliance with the provisions of this article.~~ an affidavit of compliance with federal and state laws regarding tied house laws, trade practice requirements, and furnishing things of value requirements set forth in the code and the rules. The commissioner shall suspend the licenses of licensed distributors and suppliers upon 10 days written notice by the commissioner, for failing to pay their taxes to the Tax Commissioner or who are not otherwise in good standing with the commissioner and other state agencies. If the licensed distributors and suppliers fail to pay their taxes or otherwise fail to take corrective actions to put the licensed distributors and suppliers in good standing within 30 days from the date of suspension of the licensee's license, then the commissioner shall revoke the licensee's license pursuant to the requirements of this article.

~~The penal sum of the bond for distributors shall be ten thousand dollars and the penal sum of the bond for suppliers shall be \$10,000. Each distributor shall be required to furnish separate bond for each location or separate place of business from which wine is distributed, sold or~~

~~delivered. Revocation or forfeiture of the bond furnished for any such location may, in the discretion of the commissioner, cause the revocation or forfeiture of all such bonds furnished by the distributor suffering such revocation or forfeiture.~~

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

(a) Any Class A wine licensee, in good standing with the commissioner, may apply, on a form provided by the commissioner, to sell, serve, and furnish wine for on-premises consumption on the licensee's licensed premises in a private wine outdoor dining area or private wine outdoor street dining area, as authorized by any municipal council or county commission who has determined that such areas are legally demarcated by a municipality or county for the sale and consumption of wine.

(b) The Class A wine licensee shall submit to a municipal 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 that is adjacent to the licensee's licensed premises for private wine outdoor dining under the licensee's control and with right of ingress and egress. For private outdoor street 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 150 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 street dining set forth in §11-16-9 of this code.

(d) For purposes of this section, "private wine outdoor dining and private wine 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 two temporary or fixed walls.

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

(e) Class A licensees licensed for on-premises sales shall provide food or a meal along with sealed wine in the original container or a sealed wine growler sales and service as set forth in this section and in §60-8-3 of this code, to a patron who is in-person or in-vehicle while picking up food and sealed wine in the original containers or sealed wine growlers ordered-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.

§60-8-34. When retail sales prohibited.

It ~~shall be~~ is unlawful for a retailer, farm winery, wine specialty shop retailer, private wine bed and breakfast, private wine restaurant, or private wine spa licensee, his or her servants, agents, or employees to sell or deliver wine between the hours of 2:00 a.m. and ~~4:00~~ 6:00 a.m. or, it ~~shall be~~ is unlawful for a winery, farm winery, private wine bed and breakfast, private wine restaurant, or private wine spa, his or her servants, agents, or employees to sell wine between the hours of 2:00 a.m. and 1:00 p.m. in any county upon approval as provided for in §7-1-3ss of this code, ~~on Sundays,~~ or between the hours of 2:00 a.m. and ~~7:00~~ 6:00 a.m. on weekdays, ~~and Saturdays, and Sundays~~

ARTICLE 8A. MANUFACTURE AND SALE OF HARD CIDER.**§60-8A-1. Definition of Hard Cider.**

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

§60-8A-2. Applicability of other laws and licenses.

(a) Except as stated in this article, all wine licenses and other wine requirements set forth in §60-8-1 et seq., §60-4-3b, and §60-6-2, of this code, shall apply to the manufacture, distribution, or sale of hard cider. Any person or licensee legally authorized to manufacture, distribute, or sell wine may manufacture, distribute, or sell hard cider in the same manner and to the same persons, and subject to the same limitations and conditions, as such license or legal right authorizes him or her to manufacture, distribute, or sell wine. No additional wine license fees shall be charged for the privilege of manufacturing, distributing, or selling hard cider.

(b) Except as stated in this article, all hard cider distributors are bound by all wine distribution requirements set forth in §60-8-1 et seq., §60-4-3b, and §60-6-2, of this code which shall apply to distribution of hard cider. Any person or licensee legally authorized to distribute hard cider may distribute hard cider in the same manner and to the same persons, and subject to the same limitations and conditions, as a license or legal right would authorize him or her to distribute wine. An additional hard cider license fees shall not be charged for the privilege of distributing hard cider.

§60-8A-3. Taxation; reporting; deposits into Agriculture Development Fund; penalties for failure to file returns; application of state tax law; rulemaking authority.

(a) There is hereby levied and imposed on all hard cider sold on and after July 1, 2021, by wineries, farm wineries, and suppliers to distributors, and including all hard cider sold and sent to persons 21 years of age or older who reside in West Virginia from direct shippers, a tax of 22.6 cents per gallon, in like ratio for any partial gallon or other unit of measure: *Provided*, That wineries, farm wineries, and suppliers eligible for federal tax credits in 26 U.S.C. 5041(c)(1) on hard cider are eligible for the credits in this state against the tax on hard cider. In the case of a person who produces not more than 250,000 wine gallons of hard cider during the calendar year, there shall be allowed as a credit against any tax imposed by this section of 5.6 cents per wine

gallon on the first 100,000 wine gallons of hard cider which are removed during such year for consumption or sale and which have been produced at qualified facilities in the United States. That credit shall be reduced by one percent for each 1,000 wine gallons of hard cider produced in excess of 150,000 wine gallons of hard cider during the calendar year. For the purposes of this section, the term "wine gallon" means a United States gallon of liquid measure equivalent to the volume of 231 cubic inches. On lesser quantities, the tax shall be paid proportionately (fractions of less than one-tenth gallon being converted to the nearest one-tenth gallon, and five-hundredths gallon being converted to the next full one-tenth gallon). Hard cider is exempt from the liter tax established under §60-8-4 of this code.

(b) The Tax Commissioner shall deposit, at least quarterly, after deducting the amount of any refunds lawfully paid and any administrative fees authorized by this code, the taxes for the hard cider, pursuant to this section, in the Agriculture Development Fund established by §19-2-12 of this code.

(c) Before the 16th day of each month thereafter, every winery, farm winery, supplier, distributor, and direct shipper shall make a written report under oath to the Tax Commissioner and the commissioner showing the identity of the purchasing person, the quantity, label, and alcoholic content of hard cider sold by the winery, farm winery, and supplier to West Virginia distributors or the direct shipper to persons 21 years of age or older who reside in West Virginia during the preceding month and at the same time shall pay the tax imposed by this article on the hard cider sold to the distributor or to persons 21 years of age or older who reside in West Virginia during the preceding month to the Tax Commissioner.

The reports shall contain other information and be in the form required by the Tax Commissioner. For purposes of this article, the reports required by this section shall be considered tax returns covered by the provisions of §11-10-1 *et seq.* of this code. Failure to timely file the tax returns within five calendar days of the 16th day of each month subjects a winery, farm winery, supplier, distributor, and direct shipper to penalties under §60-8-18 of this code.

(d) No hard cider imported, sold, or distributed in this state or sold and shipped to this state by a direct shipper shall be subject to more than one per-gallon tax on hard cider.

(e) *Administrative procedures.* — Each and every provision of the West Virginia Tax Procedure and Administration Act set forth in § 11-10-1 *et seq.* of this code, applies to the taxes imposed pursuant to this section, except as otherwise expressly provided in this article, with like effect as if that act were applicable only to the taxes imposed by this section and were set forth in extenso in this article.

(f) *Criminal penalties.* — Each and every provision of the West Virginia Tax Crimes and Penalties Act set forth in § 11-9-1 *et seq.* of this code applies to the taxes imposed pursuant to this section with like effect as if that act were applicable only to the taxes imposed pursuant to this article and were set forth in extenso in this article.

(g) The Tax Commissioner may propose legislative rules for legislative approval, pursuant to §29A-3-1 *et seq.* of this code, to implement this section.

§60-8A-4. Fruit sources; phase in; applications.

(a) On and after July 1, 2021, pursuant to §60-3-25 of this code, any farm winery attempting to manufacture hard cider may apply to the Agriculture Commissioner with a copy to the

commissioner showing its inability to obtain 75 percent of the apples, pears, peaches, honey, or other fruits necessary to produce its hard cider from within this state. The Agriculture Commissioner may issue a permit to the applicant to import such fruit, honey, or fruit juice concentrate in an amount determined necessary by the Agriculture Commissioner to allow the farm winery to produce hard cider within the percentage established by §60-1-5a of this code.

(b) The burden of proof is on the applicant to show that apples, pears, peaches, honey, or other fruits, of the type normally used by the licensee are not available from any other source within the State of West Virginia. The commissioner shall not consider an application for a permit under this section unless it is accompanied by written findings by the Agriculture Commissioner in support of the application.

(c) Notwithstanding any provision in §60-3-25 of this code, to the contrary, any permit issued under this section is effective for a period of up to three years: *Provided*, That the applicant files an annual statement of necessity, supported by written findings from the Agriculture Commissioner, with the commissioner. After the five-year permit issued pursuant to this section has expired, the applicant shall submit any subsequent application for a permit pursuant to §60-3-25 of this code.

§60-8A-5. Winery or farm winery licensee's authority to manufacture, sell, and provide complimentary samples; growler sales; advertisements; taxes; fees; rulemaking.

(a) *Sales of hard cider.* — A licensed winery or farm winery with its principal place of business or manufacturing facility located in the State of West Virginia may offer hard cider manufactured by the licensed winery or farm winery for retail sale to customers from the winery's or farm winery's licensed premises for consumption off of the licensed premises only in approved and registered hard cider kegs, bottles, or cans, or also sealed wine growlers for personal consumption and not for resale. A licensed winery or farm winery may not sell, give, or furnish hard cider for consumption on the premises of the principal place of business or manufacturing facility located in the State of West Virginia, except for the limited purpose of complimentary samples as permitted in subsection (b) of this section. "Wine Growler" has the meaning set forth in §60-8-6c(q) of this code.

(b) *Complimentary samples.* — A licensed winery or farm winery with its principal place of business or manufacturing facility located in the State of West Virginia may offer complimentary samples of hard cider manufactured at the winery's or farm winery's principal place of business or manufacturing facility located in the State of West Virginia. The complimentary samples may be no greater than two fluid ounces per sample per patron, and a sampling shall not exceed six complimentary two-fluid ounce samples per patron per day. A licensed winery or farm winery providing complimentary samples shall provide complimentary food items to the patron consuming the complimentary samples; and prior to any sampling, verify, using proper identification, that the patron sampling is 21 years of age or older and that the patron is not noticeably or visibly intoxicated.

(c) *Retail sales.* — Every licensed winery or farm winery under this section shall comply with all the provisions applicable to wine retailers when conducting sales of hard cider and is subject to all applicable requirements and penalties.

(d) *Payment of taxes and fees.* — A licensed winery or farm winery under this section shall pay all taxes and fees required of licensed wine retailers, in addition to any other taxes and fees

required, and meet applicable licensing provisions as required by law and by rule of the commissioner.

(e) Advertising. — A licensed winery or farm winery may advertise a particular brand or brands of hard cider produced by the licensed winery or farm winery and the price of the hard cider subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance or target minors.

(f) Growler requirements. — A licensed winery or farm winery, if offering wine growler filling services, shall meet the filling, labeling, sanitation, and all other wine growler requirements in §60-8-6c of this code.

(g) Fee. — There is no additional fee for a licensed winery or farm winery authorized under §60-8-6c of this code, to sell wine growlers, if a winery or farm winery only desires to sell hard cider in the wine growler, and no other wine, then the annual nonprorated and nonrefundable license fee is \$50.

§60-8A-6. Rule-making authorization.

The West Virginia Alcoholic Beverage Control Commissioner may propose legislative rules for legislative approval, pursuant to §29A-3-1 et seq. of this code, to implement this article.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY, AND DECENCY.

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

Any proprietor or any person in charge of a dance house, concert saloon, theater, museum, or similar place of amusement, or other place, where wines or spirituous or malt liquors are sold or given away, or any place of entertainment injurious to health or morals who admits or permits to remain therein any minor under the age of 18 years, unless accompanied by his or her parent or guardian, is guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine not exceeding \$200: *Provided*, That there is exemption from this prohibition for: (a) A private caterer, private club restaurant, private manufacturer club, private fair and festival, private resort hotel, private hotel, private golf club, private nine-hole golf course, private resort hotel, and private golf club private tennis club, private wedding venue or barn, private outdoor dining and private outdoor street dining, private multi-vendor fair and festival license, private farmers market, private professional sports stadium, and a private multi-sports complex licensed pursuant to §60-7-1 et seq. of this code and in compliance with §60-7-2(f)(11), §60-7-2(g)(8), §60-7-2(h)(74), §60-7-2(i)(78), and §60-7-2(j)(7), §60-7-2(k)(8), §60-7-2(l)(8), §60-7-2(m)(7), §60-7-2(n)(7), §60-7-2(o)(8), §60-7-2(p)(8), §60-7-2(q)(12), §60-7-2 (r)(8), §60-7-2(s)(9), §60-7-8c(b)(14), §60-7-8d, and §60-8-32a, of this code; or (b) a private club with more than 1,000 members that is in good standing with the Alcohol Beverage Control Commissioner, that has been approved by the Alcohol Beverage Control Commissioner; and which has designated certain seating areas on its licensed premises as nonalcoholic liquor and nonintoxicating beer areas, as noted in the licensee's floorplan; or (c) a private fair and festival that is in compliance with §60-7-2(f)(7) of this code, by utilizing using a mandatory carding or identification program whereby by which all members or guests being served or sold alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer are asked and must required to provide their proper identification to verify their identity and further

that they are of legal drinking age, 21 years of age or older, prior to each sale or service of alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer.

On motion of Senator Trump, the following amendments to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 2025) were reported by the Clerk and considered simultaneously:

On page twenty-one, section nine, line one hundred four, by striking out the words "The area shall be adjacent to the licensees licensed premises for nonintoxicating beer or nonintoxicating craft beer outdoor dining under the licensee's control with ingress and egress.";

On page forty-seven, section three-c, line sixty-eight, after the word "of", by inserting the words "not less than";

On page seventy-six, section eight-d, lines one through six, by striking out all of subsection (a) and inserting in lieu thereof a new subsection (a), to read as follows:

(a) With prior approval of the Commissioner (a) a private club licensee may sell, serve and furnish alcoholic liquor and; if licensed therefor nonintoxicating craft beer to be consumed on premises in a legally demarcated area which may include a temporary private outdoor dining area or temporary private outdoor street dining area. A temporary private outdoor street dining 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.;

On page seventy-six, section eight-d, line eleven, after the word "area", by inserting a period and striking out the remainder of the sentence;

On page one hundred twenty-six, section thirty-two-a, lines one through six, by striking out all of subsection (a), and inserting in lieu thereof a new subsection (a), to read as follows:

(a) With prior approval of the Commissioner, a Class A wine licensee may sell, serve and furnish wine for on premises consumption on premises consumption in a legally demarcated area in which may include a temporary private wine outdoor dining area or 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.;

On page one hundred twenty-six, section thirty-two-a, line ten, after the word "area", by inserting a period and striking out the remainder of the sentence;

And,

On page one hundred twenty-six, section thirty-two-a, line twelve, after the word "For", by striking the words "private outdoor street dining" and inserting in lieu thereof the words "private wine outdoor street dining or private wine outdoor dining".

Following discussion,

The question being on the adoption of Senator Trump's amendments to the Judiciary committee amendment to the bill, the same was put and prevailed.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 2025), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2195, Relating to motor vehicle crash reports.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 4. ACCIDENTS.

§17C-4-7. Reports of crashes.

(a) Every law-enforcement officer who, in the regular course of duty, investigates a motor vehicle crash occurring on the public streets or highways of this state resulting in bodily injury to, or death of, any person or total property damage to an apparent extent of \$1,000 or more shall, either at the time of and at the scene of the crash or thereafter by interviewing participants or witnesses, within 24 hours after completing such investigation, prepare a report of such crash either electronically or in writing.

(b) Within 24 hours of a motor vehicle crash, the investigating law-enforcement officer shall provide the owner, operator, and insurance information upon request for all the involved parties to each of the other involved parties, and to each party's respective insurance agents. This information shall be made available, at no cost, whether or not the accident report has been completed.

~~(b)~~ (c) The investigating law-enforcement officer shall submit the report electronically or in writing within 24 hours after completing the investigation to the Division of Highways in the form and manner approved by the Commissioner of the Division of Highways, the Superintendent of the West Virginia State Police, and the Commissioner of the Division of Motor Vehicles. The Division of Highways shall supply electronic or paper copies of ~~such~~ the form to police departments, sheriffs, and other appropriate law-enforcement agencies.

~~(c)~~ (d) In the event that the investigating law-enforcement officer cannot complete the investigation within 10 days of the crash, he or she shall submit a preliminary report of the crash to the Division of Highways on the 10th day after the crash and submit the final report within 24 hours of completion of the investigation pursuant to subsection ~~(b)~~(c) of this section.

The bill (Eng. Com. Sub. for H. B. 2195), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2363, Relating to "Best Interests of the Child Protection Act of 2021".

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

(Senator Weld in the Chair.)

By striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 48. DOMESTIC RELATIONS.

ARTICLE 1. GENERAL PROVISIONS, DEFINITIONS.

§48-1-220. Decision-making responsibility defined.

“Decision-making responsibility” refers to authority for making significant life decisions on behalf of a child, including, but not limited to, the child’s education, spiritual guidance and health care: Provided, That with regard to healthcare, both parents in any shared parenting plan, regardless of the relative ratio of parenting time allocated between the parents, shall have the authority to make emergency or other non-elective healthcare decisions concerning their child necessary for the child’s health or welfare during such parent’s parenting time.

§48-1-239. Shared parenting defined.

(a) “Shared parenting” means either basic shared parenting or extended shared parenting.

(b) “Basic shared parenting” means an arrangement under which one parent keeps a child or children overnight for less than 35 percent of the year and under which both parents contribute to the expenses of the child or children in addition to the payment of child support.

(c) “Extended shared parenting” means an arrangement under which each parent keeps a child or children overnight for more than 35 percent of the year and under which both parents contribute to the expenses of the child or children in addition to the payment of child support.

(d) In any case where, in the absence of an agreement between the parents, a court orders shared parenting at a ratio of, or further disparate than, 65 percent to 35 percent, the order shall be in writing and include specific findings of fact supporting the court’s determination.

§48-1-239a. Shared legal custody defined.

“Shared legal custody” means a continued mutual responsibility and involvement by both parents in major decisions regarding the child’s welfare including matters of education, medical care, and emotional, moral, and religious development consistent with the provisions of §48-9-207 of this code.

48-1-239b. Sole legal custody defined.

“Sole legal custody” means that one parent has the right and responsibility to make major decisions regarding the child’s welfare including matters of education, non-emergency medical care, and emotional, moral, and religious development.

§48-1-241a. Shared physical custody defined.

“Shared physical custody” means a child has periods of residing with, and being under the supervision of, each parent consistent with the provisions of §48-9-206 of this code: *Provided,* That physical custody shall be shared by the parents in such a way as to assure a child has frequent and continuing contact with both parents. Such frequent and continuing contact with both

parents is rebuttably presumed to be in the best interests of the child unless the evidence shows otherwise.

§48-1-241b. Sole physical custody defined.

“Sole physical custody” means a child resides with and is under the supervision of one parent, subject to reasonable visitation by the other parent, unless the court determines that the visitation would not be in the best interests of the child.

ARTICLE 9. ALLOCATION OF CUSTODIAL RESPONSIBILITY AND DECISION-MAKING RESPONSIBILITY OF CHILDREN.

§48-9-102. Objectives; best interests of the child.

(a) The primary objective of this article is to serve the child’s best interests, by facilitating:

(1) Stability of the child;

(2) Parental planning and agreement about the child’s custodial arrangements and upbringing;

(3) Continuity of existing parent-child attachments;

(4) Meaningful contact between a child and each parent;

(5) Caretaking and parenting relationships by adults who love the child, know how to provide for the child’s needs, and who place a high priority on doing so;

(6) Security from exposure to physical or emotional harm; ~~and~~

(7) Expedient, predictable decision-making and avoidance of prolonged uncertainty respecting arrangements for the child’s care and control; and

(8) Meaningful contact between a child and his or her siblings, including half-siblings.

(b) A secondary objective of article is to achieve fairness between the parents.

§48-9-105. Venue for custodial allocation actions independent of divorce.

(a) Venue for the initial determination of custodial allocation or child custody determination within a divorce action shall be governed by §48-5-106 or §48-20-101 et seq. of this code, or both.

(b) Venue for the initial determination of custodial allocation or child custody determination as between parties who reside in separate states shall be governed by §48-20-101 et seq. of this code.

(c) Venue for modification of custodial allocation or modification of child custody determination which was previously determined in a tribunal of a state other than West Virginia shall be governed by §48-20-101 et seq. of this code.

(d) When all persons with potential custodial responsibility reside within the State of West Virginia and the home state of the child is West Virginia as defined in §48-20-102(g) of this code:

(1) Venue for an initial determination of custodial allocation shall be properly had in the county where the parties and the child last resided together or in the child's home county, which is where the child has resided for at least six consecutive months or since birth. If a child, over the age of six months, has not resided in any county for six consecutive months, then venue lies in the county where the respondent resides at the time of the filing of the action.

(2) Venue for a modification of custodial allocation remains in the county in which the initial custodial allocation was determined until such time as:

(A) Neither the child nor any person with custodial responsibility has resided in the county where the initial custodial allocation was determined for a period of not less than six months preceding the filing of the modification action; neither the child nor any person with custodial responsibility resides within 40 miles of the county seat of the county where the initial custodial allocation was determined; a modification action has been filed in the county where the initial custodial allocation was determined; and a motion to change venue to the residence of the responding party has been filed.

(B) If the conditions of paragraph (A) of this subdivision are satisfied, the matter shall be transferred to the family court in the responding party's county of residence; or

(C) If the conditions of paragraph (A) of this subdivision are met and all parties consent, the matter may be transferred to the family court in the petitioning party's county of residence.

§48-9-203. Proposed temporary parenting plan; temporary order; amendment; vacation of order.

(a) A parent seeking a temporary order relating to parenting shall file and serve a proposed temporary parenting plan by motion. The other parent, if contesting the proposed temporary parenting plan, shall file and serve a responsive proposed parenting plan. Either parent may move to have a proposed temporary parenting plan entered as part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order. The proposed temporary parenting plan may be supported by relevant evidence and shall be verified and shall state at a minimum the following:

(1) The name, address and length of residence with the person or persons with whom the child has lived for the preceding twelve months;

(2) The performance by each parent during the last 12 months of the parenting functions relating to the daily needs of the child;

(3) The parents' work and child-care schedules for the preceding twelve months;

(4) The parents' current work and child-care schedules; and

(5) Any of the circumstances set forth in ~~section 9-209~~ §48-9-209 of this code that are likely to pose a serious risk to the child and that warrant limitation on the award to a parent of temporary residence or time with the child pending entry of a permanent parenting plan.

(b) At the hearing, the court shall enter a temporary parenting order incorporating a temporary parenting plan which includes:

(1) A schedule for the child's time with each parent when appropriate;

(2) Designation of a temporary residence for the child;

(3) Allocation of decision-making authority, if any. Absent allocation of decision-making authority consistent with ~~section two hundred seven of this article~~ §48-9-207 of this code, neither party shall make any decision for the child other than those relating to day-to-day or emergency care of the child, which shall be made by the party who is present with the child;

(4) Provisions for temporary support for the child; ~~and~~

(5) Restraining orders, if applicable; and

(6) Specific findings of fact upon which the court bases its determinations.

(c) A parent may make a motion for an order to show cause and the court may enter a temporary order, including a temporary parenting plan, upon a showing of necessity.

(d) A parent may move for amendment of a temporary parenting plan, and the court may order amendment to the temporary parenting plan, if the amendment conforms to the limitations of ~~section 9-209~~ §48-9-209 of this code and is in the best interest of the child. The court's order modifying the plan shall be in writing and contain specific findings of fact upon which the court bases its determinations.

§48-9-204. Criteria for temporary parenting plan.

(a) After considering the proposed temporary parenting plan filed pursuant to ~~section 9-203~~ §48-9-203 of this code and other relevant evidence presented, the court shall make a temporary parenting plan that is in the best interest of the child, which shall be in writing and contain specific findings of fact upon which the court bases its determinations. In making this determination, the court shall give particular consideration to:

(1) Which parent has taken greater responsibility during the last 12 months for performing caretaking and/or parenting functions relating to the daily needs of the child; and

(2) Which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending.

(b) The court shall also consider the factors used to determine residential provisions in the permanent parenting plan.

(c) Upon credible evidence of one or more of the circumstances set forth in ~~subsection 9-209(a)~~ §48-9-209(a) of this code, the court shall issue a temporary order limiting or denying access to the child as required by that section, in order to protect the child or the other party, pending adjudication of the underlying facts. The temporary order shall be in writing and include specific findings of fact supporting the court's determination.

(d) Expedited procedures shall be instituted to facilitate the prompt issuance of a parenting plan.

§48-9-206. Allocation of custodial responsibility.

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code or unless harmful to the child, the court shall allocate custodial responsibility so that, except to the extent required under §48-9-209 of this code, the custodial time the child spends with each parent may be expected to achieve any of the following objectives:

(1) To permit the child to have a meaningful relationship with each parent who has performed a reasonable share of parenting functions;

(2) To accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child who is 14 years of age or older; and to accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent;

(3) To keep siblings together when the court finds that doing so is necessary to their welfare;

(4) To protect the child's welfare when, under an otherwise appropriate allocation, the child would be harmed because of a gross disparity in the quality of the emotional attachments between each parent and the child, or in each parent's demonstrated ability or availability to meet a child's needs;

(5) To take into account any prior agreement of the parents that, under the circumstances as a whole, including the reasonable expectations of the parents in the interest of the child, would be appropriate to consider;

(6) To avoid an allocation of custodial responsibility that would be extremely impractical or that would interfere substantially with the child's need for stability in light of economic, physical, or other circumstances, including the distance between the parents' residences, the cost and difficulty of transporting the child, the parents' and child's daily schedules, and the ability of the parents to cooperate in the arrangement;

(7) To apply the principles set forth in §48-9-403(d) of this code if one parent relocates or proposes to relocate at a distance that will impair the ability of a parent to exercise the amount of custodial responsibility that would otherwise be ordered under this section;

(8) To consider the stage of a child's development; ~~and~~

(9) To consider which parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities;

(10) To take into account the preference that time allocated to the parent resulting in the child being under the care and custody of that parent is preferred to time allocated to the parent resulting in the child being under the care or custody of a family member of that parent or a third party; and

(11) To allow reasonable access to the child by telephone or other electronic contact, which shall be defined in the parenting plan.

(b) The court may consider the allocation of custodial responsibility arising from temporary agreements made by the parties after separation if the court finds, by a preponderance of the evidence, that such agreements were consensual. The court shall afford those temporary consensual agreements the weight the court believes the agreements are entitled to receive, based upon the evidence. The court may not consider the temporary allocation of custodial responsibility imposed by a court order on the parties.

(c) If the court is unable to allocate custodial responsibility under §48-9-206(a) of this code because the allocation under §48-9-206(a) of this code would be harmful to the child, or because there is no history of past performance of caretaking functions, as in the case of a newborn, or because the history does not establish a pattern of caretaking sufficiently dispositive of the issues of the case, the court shall allocate custodial responsibility based on the child's best interest, taking into account the factors in considerations that are set forth in this section and in §48-9-209 and §48-9-403(d) of this code and preserving to the extent possible this section's priority on the share of past caretaking functions each parent performed: Provided, That if either parent or both has demonstrated reasonable participation in parenting functions as defined in §48-1-235.2 of this code, the court cannot rely solely on caretaking functions, and shall consider the parents' participation in parenting functions.

(d) In determining how to schedule the custodial time allocated to each parent, the court shall take account of the economic, physical, and other practical circumstances such as those listed in §48-9-206(a)(6) of this code.

(e) In the absence of an agreement of the parents, the court's determination of allocation of custodial responsibility under this section shall be made pursuant to a hearing, which shall not be conducted exclusively by the presentation of evidence by proffer. The court's order determining allocation of custodial responsibility shall be in writing, and include specific findings of fact supporting the determination.

§48-9-207. Allocation of significant decision-making responsibility.

(a) Unless otherwise resolved by agreement of the parents under ~~section 9-201~~ §48-9-201 of this code, the court shall allocate responsibility for making significant life decisions on behalf of the child, including the child's education and health care, to one parent or to two parents jointly, in accordance with the child's best interest, in light of:

(1) The allocation of custodial responsibility under ~~section 9-206 of this article~~ §48-9-206 of this code;

(2) The level of each parent's participation in past decision-making on behalf of the child;

(3) The wishes of the parents;

(4) The level of ability and cooperation the parents have demonstrated in decision-making on behalf of the child;

(5) Prior agreements of the parties; and

(6) The existence of any limiting factors, as set forth in section 9-209 of this article.

(b) If each of the child's legal parents has been exercising a reasonable share of parenting functions for the child, the court shall presume that an allocation of decision-making responsibility to both parents jointly is in the child's best interests. The presumption is overcome if there is a history of domestic abuse, neglect, or abandonment, or by a showing that joint allocation of decision-making responsibility is not in the child's best interest: Provided, That the court's determination shall be in writing and include specific findings of fact supporting any determination that joint allocation of decision-making responsibility is not in the child's best interest.

(c) Unless otherwise provided or agreed by the parents, each parent who is exercising custodial responsibility shall be given sole responsibility for day-to-day decisions for the child, while the child is in that parent's care and control, including emergency decisions affecting the health and safety of the child.

PART 2 – PARENTING PLANS

§48-9-209. Parenting plan; limiting factors.

(a) If either of the parents so requests, or upon receipt of credible information thereof, the court shall determine whether a parent who would otherwise be allocated responsibility under a parenting plan:

(1) Has abused, neglected or abandoned a child, as defined by state law;

(2) Has sexually assaulted or sexually abused a child as those terms are defined in ~~articles eight b and eight d, chapter sixty one~~ §61-8B-1 et seq. and §61-8D-1 et seq. of this code;

(3) Has committed domestic violence, as defined in ~~section 27-202~~ §48-27-202 of this code;

(4) Has ~~interfered persistently with the other parent's access to the child,~~ overtly or covertly, persistently violated, interfered with, impaired, or impeded the rights of a parent or a child with respect to the exercise of shared authority, residence, visitation, or other contact with the child, except in the case of actions taken for the purpose of protecting the safety of the child or the interfering parent or another family member, pending adjudication of the facts underlying that belief; or

(5) Has made one or more fraudulent reports of domestic violence or child abuse: *Provided*, That a person's withdrawal of or failure to pursue a report of domestic violence or child support shall not alone be sufficient to consider that report fraudulent.

(b) If a parent is found to have engaged in any activity specified by subsection (a) of this section, the court shall impose limits that are reasonably calculated to protect the child or child's parent from harm. The limitations that the court shall consider include, but are not limited to:

(1) An adjustment of the custodial responsibility of the parents, including but not limited to:

(A) Increased parenting time with the child to make up for any parenting time the other parent lost as a result of the proscribed activity;

(B) An additional allocation of parenting time in order to repair any adverse effect upon the relationship between the child and the other parent resulting from the proscribed activity; or

- (C) The allocation of exclusive custodial responsibility to one of them;
- (2) Supervision of the custodial time between a parent and the child;
- (3) Exchange of the child between parents through an intermediary, or in a protected setting;
- (4) Restraints on the parent from communication with or proximity to the other parent or the child;
- (5) A requirement that the parent abstain from possession or consumption of alcohol or nonprescribed drugs while exercising custodial responsibility and in the twenty-four hour period immediately preceding such exercise;
- (6) Denial of overnight custodial responsibility;
- (7) Restrictions on the presence of specific persons while the parent is with the child;
- (8) A requirement that the parent post a bond to secure return of the child following a period in which the parent is exercising custodial responsibility or to secure other performance required by the court;
- (9) A requirement that the parent complete a program of intervention for perpetrators of domestic violence, for drug or alcohol abuse, or a program designed to correct another factor; or
- (10) Any other constraints or conditions that the court deems necessary to provide for the safety of the child, a child's parent or any person whose safety immediately affects the child's welfare.
- (c) If a parent is found to have engaged in any activity specified in subsection (a) of this section, the court may not allocate custodial responsibility or decision-making responsibility to that parent without making special written findings that the child and other parent can be adequately protected from harm by such limits as it may impose under subsection (b) of this section. The parent found to have engaged in the behavior specified in subsection (a) of this section has the burden of proving that an allocation of custodial responsibility or decision-making responsibility to that parent will not endanger the child or the other parent.
- (d) If the court determines, based on the investigation described in part three of this article or other evidence presented to it, that an accusation of child abuse or neglect, or domestic violence made during a child custody proceeding is false and the parent making the accusation knew it to be false at the time the accusation was made, the court may order reimbursement to be paid by the person making the accusations of costs resulting from defending against the accusations. Such reimbursement may not exceed the actual reasonable costs incurred by the accused party as a result of defending against the accusation and reasonable attorney's fees incurred.
- (e) (1) A parent who believes he or she is the subject of activities by the other parent described in subdivision (5) of subsection (a), may move the court pursuant to subdivision (4), subsection (b), section one hundred and one, article five, chapter forty-nine of this code for the Department of Health and Human Resources to disclose whether the other parent was the source of the allegation and, if so, whether the department found the report to be:
- (A) Substantiated;

- (B) Unsubstantiated;
- (C) Inconclusive; or
- (D) Still under investigation.

(2) If the court grants a motion pursuant to this subsection, disclosure by the Department of Health and Human Resources shall be in camera. The court may disclose to the parties information received from the department only if it has reason to believe a parent knowingly made a false report.

PART 3. FACT FINDING.

§48-9-301. Court-ordered investigation.

(a) In its discretion, the court may order a written investigation and report to assist it in determining any issue relevant to proceedings under this article: Provided, That the court must serve notice to all parties of the court's order. The investigation and report may be made by the guardian ad litem, the staff of the court, or other professional social service organization experienced in counseling children and families: Provided, That the court shall identify to all parties the identity of the assigned investigator, and the investigator shall be a compulsory witness for any party desiring to call the witness for hearing testimony. The court shall specify the scope and objective of the investigation or evaluation and the authority of the investigator.

(b) In preparing the report concerning a child, the investigator may consult any person who may have information about the child and the potential parenting or custodian arrangements: Provided, That the person(s) consulted by the investigator shall be identified to the parties and may be subject to discovery. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if the child has reached the age of twelve, unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (c) of this section are fulfilled, the investigator's report may be received in evidence at the hearing.

(c) The investigator shall deliver the investigator's report to counsel and to any party not represented by counsel at least 10 days prior to the hearing unless a shorter time is ordered by the court for good cause shown: Provided, That in no event shall the hearing take place until after the report has been provided to the parties. The court may grant a continuance, upon motion by a party showing good cause that discovery cannot be adequately completed within 10 days. The investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, records or documents reviewed or relied upon by the investigator, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (b) of this section, and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call as a hearing witness the investigator and any person whom the investigator has consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing.

(d) Services and tests ordered under this section shall be ordered only if at no cost to the individuals involved, or at a cost that is reasonable in light of the available financial resources.

PART 4. MODIFICATION OF PARENTING PLAN.

§48-9-403. Relocation of a parent.

~~(a) The relocation of a parent constitutes a substantial change in the circumstances under subsection 9-401(a) of the child only when it significantly impairs either parent's ability to exercise responsibilities that the parent has been exercising.~~

~~(b) Unless otherwise ordered by the court, a parent who has responsibility under a parenting plan who changes, or intends to change, residences for more than ninety days must give a minimum of sixty days' advance notice, or the most notice practicable under the circumstances, to any other parent with responsibility under the same parenting plan. Notice shall include:~~

~~(1) The relocation date;~~

~~(2) The address of the intended new residence;~~

~~(3) The specific reasons for the proposed relocation;~~

~~(4) A proposal for how custodial responsibility shall be modified, in light of the intended move; and~~

~~(5) Information for the other parent as to how he or she may respond to the proposed relocation or modification of custodial responsibility.~~

~~Failure to comply with the notice requirements of this section without good cause may be a factor in the determination of whether the relocation is in good faith under subsection (d) of this section and is a basis for an award of reasonable expenses and reasonable attorney's fees to another parent that are attributable to such failure.~~

~~The Supreme Court of Appeals shall make available through the offices of the circuit clerks and the secretary clerks of the family courts a form notice that complies with the provisions of this subsection. The Supreme Court of Appeals shall promulgate procedural rules that provide for an expedited hearing process to resolve issues arising from a relocation or proposed relocation.~~

~~(c) When changed circumstances are shown under subsection (a) of this section, the court shall, if practical, revise the parenting plan so as to both accommodate the relocation and maintain the same proportion of custodial responsibility being exercised by each of the parents. In making such revision, the court may consider the additional costs that a relocation imposes upon the respective parties for transportation and communication, and may equitably allocate such costs between the parties.~~

~~(d) When the relocation constituting changed circumstances under subsection (a) of this section renders it impractical to maintain the same proportion of custodial responsibility as that being exercised by each parent, the court shall modify the parenting plan in accordance with the child's best interests and in accordance with the following principles:~~

~~(1) A parent who has been exercising a significant majority of the custodial responsibility for the child should be allowed to relocate with the child so long as that parent shows that the relocation is in good faith for a legitimate purpose and to a location that is reasonable in light of the purpose. The percentage of custodial responsibility that constitutes a significant majority of~~

~~custodial responsibility is seventy percent or more. A relocation is for a legitimate purpose if it is to be close to significant family or other support networks, for significant health reasons, to protect the safety of the child or another member of the child's household from significant risk of harm, to pursue a significant employment or educational opportunity or to be with one's spouse who is established, or who is pursuing a significant employment or educational opportunity, in another location. The relocating parent has the burden of proving of the legitimacy of any other purpose. A move with a legitimate purpose is reasonable unless its purpose is shown to be substantially achievable without moving or by moving to a location that is substantially less disruptive of the other parent's relationship to the child.~~

~~(2) If a relocation of the parent is in good faith for legitimate purpose and to a location that is reasonable in light of the purpose and if neither has been exercising a significant majority of custodial responsibility for the child, the court shall reallocate custodial responsibility based on the best interest of the child, taking into account all relevant factors including the effects of the relocation on the child.~~

~~(3) If a parent does not establish that the purpose for that parent's relocation is in good faith for a legitimate purpose into a location that is reasonable in light of the purpose, the court may modify the parenting plan in accordance with the child's best interests and the effects of the relocation on the child. Among the modifications the court may consider is a reallocation of primary custodial responsibility, effective if and when the relocation occurs, but such a reallocation shall not be ordered if the relocating parent demonstrates that the child's best interests would be served by the relocation.~~

~~(4) The court shall attempt to minimize impairment to a parent-child relationship caused by a parent's relocation through alternative arrangements for the exercise of custodial responsibility appropriate to the parents' resources and circumstances and the developmental level of the child.~~

~~(e) In determining the proportion of caretaking functions each parent previously performed for the child under the parenting plan before relocation, the court may not consider a division of functions arising from any arrangements made after a relocation but before a modification hearing on the issues related to relocation.~~

~~(f) In determining the effect of the relocation or proposed relocation on a child, any interviewing or questioning of the child shall be conducted in accordance with the provisions of rule 17 of the rules of practice and procedure for family law as promulgated by the Supreme Court of Appeals.~~

(a) The relocation of a parent constitutes a substantial change in the circumstances of the child under §48-9-401(a) of this code when it impairs either parent's ability to exercise responsibilities that the parent has been exercising, or when it impairs the schedule of custodial allocation that has been ordered by the court for a parent or any other person.

(b) A parent who has responsibility under a parenting plan who changes, or intends to change, residences must file a verified petition with the court for modification of the parenting plan, and cause a copy of the same to be served upon the other parent and upon all other persons who, pursuant to the court's order in effect at the time of the petition, have been allocated custodial time with the child. The petition shall be filed at least 90 days prior to any relocation, and the summons must be served at least 60 days in advance of any relocation, unless the relocating parent establishes that it was impracticable under the circumstances to provide such notice 90 days in advance. The verified petition shall include:

(1) The proposed relocation date;

(2) The address of the intended new residence;

(3) The specific reasons for the proposed relocation;

(4) A proposal for how custodial responsibility shall be modified, in light of the intended move; and

(5) A request for a hearing.

Failure to comply with the requirements of this section may be a factor in the determination of whether the relocation is in good faith under subsection (d) of this section, and may also be a basis for reallocation of the primary residence and custodial responsibility for the child and for an award of reasonable expenses and reasonable attorney's fees to another parent or another person exercising custodial responsibility for the child pursuant to an order of the court that are attributable to such failure.

(c) A hearing on the petition shall be held by the court at least 30 days in advance of the proposed date of relocation. A parent proposing to relocate may move for an expedited hearing upon the petition in circumstances under which the parent needs an answer expeditiously. If the hearing is held fewer than 30 days in advance of the proposed date of relocation, the court's order shall include findings of fact as to why the hearing was not held at least 30 days prior to the petition's proposed date of relocation. After a hearing upon a petition filed under this section, the court shall, if practical, revise the parenting plan so as to both accommodate the relocation and maintain the same proportion of custodial responsibility being exercised by each of the parents and all such other persons exercising custodial responsibility for the child pursuant to the order of the court. In making such revision, the court may consider the additional costs that a relocation imposes upon the respective parties for transportation and communication, and may equitably allocate such costs between the parties and may consider §48-13-702 of this code authorizing the court to disregard the child support formula relating to long distance visitation costs.

(d) (1) At the hearing held pursuant to this section, the relocating parent has the burden of proving that: (A) The reasons for the proposed relocation are legitimate and made in good faith; (B) that allowing relocation of the relocating parent with the child is in the best interests of the child as defined in §48-9-102 of this code; and (C) that there is no reasonable alternative, other than the proposed relocation, available to the relocating parent that would be in the child's best interests and less disruptive to the child.

(2) A relocation is for a legitimate purpose if it is to be close to immediate family members, for substantial health reasons, to protect the safety of the child or another member of the child's household from significant risk of harm, to pursue a significant employment or educational opportunity, or to be with one's spouse or significant other with whom the relocating parent has cohabitated for at least a year, who is established, or who is pursuing a significant employment or educational opportunity, in another location.

(3) The relocating parent has the burden of proving the proposed relocation is for one of these legitimate purposes. The relocating parent has the burden of proving the legitimacy of any other purpose. A move with a legitimate purpose is unreasonable unless the relocating parent proves that the purpose is not substantially achievable without moving, and that moving to a location that is substantially less disruptive of the other parent's relationship to the child is not feasible.

(4) When the relocation is for a legitimate purpose, in good faith, and renders it impractical to maintain the same proportion of custodial responsibility as that being exercised by each parent and all other persons exercising custodial responsibility for the child pursuant to an order of the court, the court shall modify the parenting plan in accordance with the child's best interests.

(5) If the relocating parent does not establish that the purpose for that parent's relocation is made in good faith for a legitimate purpose to a location that is reasonable in light of the purpose, the court may modify the parenting plan in accordance with the child's best interests and the effects of the relocation on the child. Among the modifications the court may consider is a reallocation of primary custodial responsibility, to become effective if and when the parent's relocation occurs.

(6) The court shall attempt to minimize impairment to a parent-child relationship caused by a parent's relocation through alternative arrangements for the exercise of custodial responsibility appropriate to the parents' resources and circumstances and the developmental level of the child.

(e) If the parties file with the court a modified parenting plan signed by all the parties the court may enter an order modifying custodial responsibility in accordance with the parenting plan if the court determines that the parenting plan is in the best interest of the child to do so.

(f) Except in extraordinary circumstance articulated in the court's order, a relocation may not be considered until an initial permanent parenting plan is established.

(g) In determining the effect of the relocation or proposed relocation on a child, any interviewing or questioning of the child shall be conducted in accordance with the provisions of Rule 17 of the Rules of Practice and Procedure for Family Court as promulgated by the Supreme Court of Appeals.

PART 6. MISCELLANEOUS PROVISIONS.

§48-9-601. Access to a child's records.

(a)(1) Each parent has full and equal access to a child's educational records absent a court order to the contrary. Neither parent may veto the access requested by the other parent. Educational records are academic, attendance and disciplinary records of public and private schools in all grades pre-kindergarten through 12 and any form of alternative school. Educational records are any and all school records concerning the child that would otherwise be properly released to the primary custodial parent, including, but not limited to, report cards and progress reports, attendance records, disciplinary reports, results of the child's performance on standardized tests and statewide tests and information on the performance of the school that the child attends on standardized statewide tests; curriculum materials of the class or classes in which the child is enrolled; names of the appropriate school personnel to contact if problems arise with the child; information concerning the academic performance standards, proficiencies, or skills the child is expected to accomplish; school rules, attendance policies, dress codes and procedures for visiting the school; and information about any psychological testing the school does involving the child.

(2) In addition to the right to receive school records, the nonresidential parent has the right to participate as a member of a parent advisory committee or any other organization comprised of parents of children at the school that the child attends.

(3) The nonresidential parent or noncustodial parent has the right to question anything in the child's record that the parent feels is inaccurate or misleading or is an invasion of privacy and to receive a response from the school.

(4) Each parent has a right to arrange appointments for parent-teacher conferences absent a court order to the contrary. Neither parent can be compelled against their will to exercise this right by attending conferences jointly with the other parent.

(b)(1) Each parent has full and equal access to a child's medical records and vital records absent a court order to the contrary. Neither parent may veto the access requested by the other parent. If necessary, either parent is required to authorize medical providers to release to the other parent copies of any and all information concerning medical care provided to the child which would otherwise be properly released to either parent.

(2) If the child is in the actual physical custody of one parent, that parent is required to promptly inform the other parent of any illness of the child which requires medical attention.

(3) Each parent is required to consult with the other parent prior to any elective surgery being performed on the child, and in the event emergency medical procedures are undertaken for the child which require the parental consent of either parent, if time permits, the other parent shall be consulted, or if time does not permit such consultation, the other parent shall be promptly informed of the emergency medical procedures: *Provided*, That nothing contained herein alters or amends the law of this state as it otherwise pertains to physicians or health care facilities obtaining parental consent prior to providing medical care or performing medical procedures.

(c)(1) Each parent has full and equal access to a child's juvenile court records, process and pleadings, absent a court order to the contrary. Neither parent may veto any access requested by the other parent. Juvenile court records are limited to those records which are normally available to a parent of a child who is a subject of the juvenile justice system.

(2) Each parent has the right to be notified by the other party if the minor child is the victim of an alleged crime, including the name of the investigating law-enforcement officer or agency, if known. There is no duty to notify if the party to be notified is the alleged perpetrator.

PART 6. MISCELLANEOUS PROVISIONS.

§48-9-603. Effect of enactment; operative dates.

(a) The enactment of this article, formerly enacted as article eleven of this chapter during the second extraordinary session of the 1999 Legislature, is prospective in operation unless otherwise expressly indicated.

(b) The provisions of ~~section 9-202~~ §48-9-202 of this code, insofar as they provide for parent education and mediation, became operative on January 1, 2000. Until that date, parent education and mediation with regard to custody issues were discretionary unless made mandatory under a particular program or pilot project by rule or direction of the Supreme Court of Appeals or a circuit court.

(c) The provisions of this article that authorize the court, in the absence of an agreement of the parents, to order an allocation of custodial responsibility and an allocation of significant decision-making responsibility became operative on January 1, 2000, at which time the primary

caretaker doctrine was replaced with a system that allocates custodial and decision-making responsibility to the parents in accordance with this article. Any order entered prior to January 1, 2000, based on the primary caretaker doctrine remains in full force and effect until modified by a court of competent jurisdiction.

(d) The amendments to this chapter made during the 2021 session of the Legislature shall become applicable upon the effective date of those amendments. Those amendments shall not, without more, be considered a substantial change in the circumstances of the child or of one or both parents under §48-9-401 et seq. of this code. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.

(Senator Blair, Mr. President, in the Chair.)

The bill (Eng. Com. Sub. for H. B. 2363), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2368, Mylissa Smith's Law, creating patient visitation privileges.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported committee amendments pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 2370, Provide that Public Service Districts cannot charge sewer rates for filling a swimming pool.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 13A. PUBLIC SERVICE DISTRICTS.

§16-13A-9b. Exemptions for Swimming Pools.

(a) A public service district shall provide the owner of a privately-owned swimming pool with an exemption from sewer charges for the water required to fill the swimming pool, if the water is not discharged into the sewer system.

(b) In order for the owner of a privately-owned swimming pool to qualify for the exemption, the owner shall provide the dimensions of the swimming pool that is being filled to the public service district within 30 days of filling the swimming pool.

(c) The public service district shall calculate the volume of the swimming pool and allow the owner of the privately-owned swimming pool to use the amount of water necessary to fill the pool without charging the owner for the corresponding sewer charges that would normally be associated for that amount of use.

(d) The public service district may inspect the swimming pool of the owner of a privately-owned swimming pool applying for the exemption to verify the dimensions of the swimming pool submitted by the owner.

The bill (Eng. Com. Sub. for H. B. 2370), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2581, Providing for the valuation of natural resources property and an alternate method of appeal of proposed valuation of natural resources property.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 2667, To create a cost saving program for state buildings regarding energy efficiency.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 2671, Relating to financial exploitation of elderly persons, protected persons or incapacitated adults.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 2688, Allow county political parties to have building funds in a similar manner that state parties are allowed.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 2694, Create the 2nd Amendment Preservation Act.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 2747, Transferring the Parole Board to the Office of Administrative Hearings.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Eng. House Bill 2776, Creating the Air Ambulance Patient Protection Act.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 2891, Creating minimum statutory standards for law-enforcement officers.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Eng. House Bill 2895, Supplementing and amending the appropriations of public moneys to the Department of Veterans' Assistance.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 2900, Expiring funds to the balance of the Department of Education – State Board of Education – School Building Authority – School Construction Fund.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 2933, Anti-Discrimination Against Israel Act.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Government Organization committee amendment pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 2982, Relating to the Second Chances at Life Act of 2021.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported committee amendments pending and the right for further amendments to be considered on that reading.

Eng. House Bill 2997, Adding a defense to the civil penalty imposed for a result of delivery of fuel to a state other than the destination state printed on the shipping document for fuel.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 3072, Sunset the Board of Forestry.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Government Organization committee amendment pending and the right for further amendments to be considered on that reading.

Eng. House Bill 3089, Make utility workers essential employees during a state of emergency.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Eng. House Bill 3107, Declaring that Post Traumatic Stress Disorder diagnosed by a licensed psychiatrist is a compensable occupational disease for first responders.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Health and Human Resources committee amendment pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 3106, To change the hearing requirement for misdemeanors to 10 days.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Eng. House Bill 3128, Relating to carrier fees on 911 fee revenues.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported committee amendments pending and the right for further amendments to be considered on that reading.

Eng. House Bill 3313, Making supplemental appropriation to the Division of Motor Vehicles.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 3314, Making supplemental appropriation to West Virginia State Police.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 3315, Making supplemental appropriation to Division of Environmental Protection - Oil and Gas Reclamation Fund.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 3316, Supplemental appropriation to the Department of Education, State Board of Education.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Senator Takubo moved that the Senate reconsider its action by which in earlier proceedings today it consented to Senator Plymale's request to offer an amendment to the bill on third reading, as to

Eng. Com. Sub. for House Bill 2002, Relating to Broadband.

Having been amended and passed in earlier proceedings today,

The bill still being in the possession of the Senate,

Following discussion and a point of inquiry to the President, with resultant response thereto,

The question being on the adoption of Senator Takubo's aforesated reconsideration motion, and on this question, Senator Plymale demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—23.

The nays were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, and Woelfel—11.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Takubo's reconsideration motion had prevailed.

The question now being on Senator Plymale's request to offer an amendment to the bill on third reading, the same was put and prevailed.

There being no amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2002), as amended on yesterday, Thursday, April 8, 2021, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips,

Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2002) passed.

On motion of Senator Maynard, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2002—A Bill to repeal §17-2E-6 of the Code of West Virginia, 1931, as amended; to repeal §31G-1-6, §31G-1-9, and §31G-1-12 of said code; to amend and reenact §17-2E-3, §17-2E-5, §17-2E-7, §17-2E-8, and §17-2E-9 of said code; to amend and reenact §31G-1-4 of said code; to amend said code by adding thereto a new article, designated §31G-1A-1, §31G-1A-2, §31G-1A-3, §31G-1A-4, §31G-1A-5, and §31G-1A-6; to amend said code by adding thereto a new section, designated §31G-3-3 and §31G-3-4; to amend and reenact §31G-4-1, §31G-4-2, and §31G-4-4 of said code; and to amend said code by adding thereto a new article, designated §31G-6-1 and §31G-6-2, all relating to broadband expansion policies; establishing requirements for agreements between the Division of Highways and an entity seeking to install telecommunications facilities; providing that if such installation can be accommodated as a utility pursuant to federal and state law, the division shall issue a permit for access to rights-of-way; providing for permit procedures and requirements; requiring notice to the Office of Broadband of a telecommunication entity's intent to seek construction in division rights-of-way; providing the Office of Broadband is responsible for ensuring compliance with certain terms of permit requirements; granting the division authority to determine whether its use of a telecommunication carrier's trench warrants apportionment of costs to it; modifying exceptions to dig once requirements; providing the division authority to allow carriers to use excess telecommunications facilities; allowing the division to transfer or assign ownership of excess telecommunications facilities to another state agency upon approval by Governor; providing rulemaking authority to the division; modifying the powers and duties of Broadband Enhancement Council; establishing the Office of Broadband within the Department of Economic Development; creating the position of the Director of the Office of Broadband; requiring the Office of Broadband report annually to the Joint Committee on Government and Finance; establishing the powers and duties of the Office of Broadband; requiring the Office of Broadband to coordinate with the Consumer Protection Division of the Attorney General's Office on specified consumer protection claims; requiring the Office of Broadband to map broadband in the state and establish an interactive public map; defining "unserved area"; requiring certain executive agencies to cooperate and provide information to the Office of Broadband regarding AREA maps; allowing Office of Broadband to establish a voluntary data collection program; providing that information collected in program not subject to the Freedom of Information Act; providing procedures and requirements for a data collection program; protecting proprietary business information provided to the Office of Broadband and exempting such information from Freedom of Information Act requirements; providing rulemaking authority to the Office of Broadband; establishing requirements for counties, municipalities, and political subdivisions regarding installation of conduit; authorizing a broadband operator to construct or operate a system over public rights-of-way and through easements which are within the area to be served and which have been dedicated for compatible uses; establishing requirements for broadband operators related to installation and construction; requiring broadband operators to indemnify the state for any claims

for injury and damage to persons or property; establishing requirements for broadband operator related to the use of public highways and other public places; providing installations in railroad rights of way and trackways do not have any greater or lesser requirement to comply with stated railroad safety requirements; establishing requirements for broadband operator related easements; defining terms; requiring that an ILEC who accepts payment for make-ready work, and fails to perform that work within 45 days, to immediately return and refund the moneys paid for that work which was not completed, and providing remedies and exceptions in such instances; requiring the Public Service Commission to promulgate rules to address abandoned cable, conductor, and related facilities attached to utility poles and providing requirements for said rules; requiring the Public Service Commission to promulgate rules to govern the timely transfer of facilities from an old pole to a new pole and the removal of utility poles that have had electric facilities moved to new poles but continue to have other facilities attached in the telecommunications space on the old existing poles and providing requirements for said rules; providing for preemption of West Virginia Code, the Code of State Rules, and ordinances relating to installation of certain broadband equipment; providing private agreements, promulgated or effective after the effective date of this legislation, may not regulate or prevent the exterior installation of antennas and equipment necessary to or typically utilized for broadband deployment; providing for scheme of construction of such language in favor of encouraging and assisting broadband installation and deployment; providing for preemption of West Virginia Code, the Code of State Rules, and ordinances relating to pole attachment of certain broadband equipment; and providing for scheme of construction of language of private agreements relating to pole attachment.

Senator Takubo moved that the bill take effect May 27, 2021.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2002) takes effect May 27, 2021.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Without objection, the Senate returned to the third order of business.

Executive Communications

The Clerk then presented the following communications from His Excellency, the Governor, regarding bills approved by him:



Jim Justice
Governor of West Virginia

April 9, 2021

The Honorable Stephen J. Harrison, Clerk
West Virginia House of Delegates
State Capitol
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for House Bill No. Two Thousand Twenty-Four (2024), which was presented to me on April 5, 2021.

Committee Substitute for House Bill No. Two Thousand Seven Hundred Ninety-Three (2793), which was presented to me on April 8, 2021.

You will note that I have approved these bills on April 9, 2021.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis



Jim Justice
Governor of West Virginia

April 9, 2021

The Honorable Stephen J. Harrison, Clerk
West Virginia House of Delegates
State Capitol
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for House Bill No. Two Thousand Twenty-Six (2026), which was presented to me on April 5, 2021.

Committee Substitute for House Bill No. Two Thousand Two Hundred Sixty (2260), which was presented to me on April 5, 2021.

Committee Substitute for House Bill No. Two Thousand Two Hundred Sixty-Three (2263), which was presented to me on April 5, 2021.

You will note that I have approved these bills on April 9, 2021.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis



Jim Justice
Governor of West Virginia

April 9, 2021

The Honorable Stephen J. Harrison, Clerk
West Virginia House of Delegates
State Capitol
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, is the following bill:

House Bill No. Three Thousand Two Hundred Ninety-Two (3292), which was presented to me on April 9, 2021.

You will note that I have approved this bill on April 9, 2021.

Sincerely

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis

(Senator Weld in the Chair.)

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Karnes, Blair (Mr. President), and Plymale.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Blair (Mr. President) and Plymale were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following resolutions on April 8, 2021:

Senate Concurrent Resolution 73: Senators Rucker, Azinger, Karnes, and Martin;

Senate Resolution 44: Senators Stollings, Woelfel, Romano, Unger, Nelson, Sypolt, Rucker, Takubo, Weld, and Caputo;

Senate Resolution 45: Senators Stollings, Romano, Unger, Rucker, Lindsay, and Caputo;

And,

Senate Resolution 46: Senators Romano, Unger, Rucker, Lindsay, and Baldwin.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 6:55 p.m., the Senate adjourned until tomorrow, Saturday, April 10, 2021, at 11 a.m.

SENATE CALENDAR

**Saturday, April 10, 2021
11:00 AM**

SPECIAL ORDER OF BUSINESS

Saturday, April 10, 2020 – 1:00 PM

Consideration of executive nominations

UNFINISHED BUSINESS

- S. C. R. 76 - Requesting study on mental health parity in WV
- S. C. R. 77 - Requesting study on fiscal impact of elimination or reduction of current tangible property tax
- S. R. 47 - Recognizing AARP WV and Capitol Advocacy Team volunteers
- S. R. 48 - Recognizing 60th anniversary of WVU at Parkersburg

THIRD READING

- Eng. Com. Sub. for H. B. 2025 - Provide liquor, wine, and beer licensees with some new concepts developed during the State of Emergency utilizing new technology to provide greater freedom to operate in a safe and responsible manner - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 2195 - Relating to motor vehicle crash reports - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 2363 - Relating to "Best Interests of the Child Protection Act of 2021" - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 2368 - Mylissa Smith's Law, creating patient visitation privileges - (Com. amend. and title amend. pending) - (With right to amend)
- Eng. Com. Sub. for H. B. 2370 - Provide that Public Service Districts cannot charge sewer rates for filling a swimming pool - (Com. title amend. pending)
- Eng. H. B. 2500 - Create an act for Statewide Uniformity for Auxiliary Container Regulations - (Com. amend. and title amend. pending) - (With right to amend)
- Eng. Com. Sub. for H. B. 2581 - Providing for the valuation of natural resources property and an alternate method of appeal of proposed valuation of natural resources property - (Com. amend. and title amend. pending) - (With right to amend)

- Eng. Com. Sub. for H. B. 2667 - To create a cost saving program for state buildings regarding energy efficiency
- Eng. Com. Sub. for H. B. 2671 - Relating to financial exploitation of elderly persons, protected persons or incapacitated adults - (Com. amend. and title amend. pending) - (With right to amend)
- Eng. Com. Sub. for H. B. 2688 - Allow county political parties to have building funds in a similar manner that state parties are allowed
- Eng. Com. Sub. for H. B. 2694 - Create the 2nd Amendment Preservation Act - (Com. amend. and title amend. pending) - (With right to amend)
- Eng. Com. Sub. for H. B. 2747 - Transferring the Parole Board to the Office of Administrative Hearings - (Com. amend. and title amend. pending) - (With right to amend)
- Eng. H. B. 2776 - Creating the Air Ambulance Patient Protection Act - (Com. amend. and title amend. pending) - (With right to amend)
- Eng. Com. Sub. for H. B. 2891 - Creating minimum statutory standards for law-enforcement officers - (Com. amend. and title amend. pending) - (With right to amend)
- Eng. H. B. 2895 - Supplementing and amending the appropriations of public moneys to the Department of Veterans' Assistance
- Eng. H. B. 2900 - Expiring funds to the balance of the Department of Education – State Board of Education – School Building Authority – School Construction Fund
- Eng. H. B. 2915 - Relating to public records management and preservation
- Eng. Com. Sub. for H. B. 2933 - Anti-Discrimination Against Israel Act - (Com. amend. and title amend. pending) - (With right to amend)
- Eng. Com. Sub. for H. B. 2982 - Relating to the Second Chances at Life Act of 2021 - (Com. amend. pending) - (With right to amend) (original similar to SB609)
- Eng. H. B. 2997 - Adding a defense to the civil penalty imposed for a result of delivery of fuel to a state other than the destination state printed on the shipping document for fuel - (Com. amend. and title amend. pending) - (With right to amend)
- Eng. Com. Sub. for H. B. 3072 - Sunset the Board of Forestry - (Com. amend. pending) - (With right to amend)
- Eng. H. B. 3089 - Make utility workers essential employees during a state of emergency - (Com. amend. and title amend. pending) - (With right to amend)
- Eng. Com. Sub. for H. B. 3106 - To change the hearing requirement for misdemeanors to 10 days - (Com. amend. and title amend. pending) - (With right to amend)
- Eng. H. B. 3107 - Declaring that Post Traumatic Stress Disorder diagnosed by a licensed psychiatrist is a compensable occupational disease for first responders - (Com. amend. pending) - (With right to amend)
- Eng. H. B. 3128 - Relating to carrier fees on 911 fee revenues - (Com. amend. and title amend. pending) - (With right to amend)
- Eng. H. B. 3313 - Making supplemental appropriation to the Division of Motor Vehicles

Eng. H. B. 3314 - Making supplemental appropriation to West Virginia State Police

Eng. H. B. 3315 - Making supplemental appropriation to Division of Environmental Protection -
Oil and Gas Reclamation Fund

Eng. H. B. 3316 - Supplemental appropriation to the Department of Education, State Board of
Education

Eng. Com. Sub. for H. J. R. 1 - Education Accountability Amendment - (Com. amend. and title
amend. pending) - (With right to amend)

Eng. Com. Sub. for H. J. R. 3 - Property Tax Modernization Amendment - (Com. amend. and
title amend. pending) - (With right to amend)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2021

9 a.m.	Rules	(Room 219M)
9:30 a.m.	Confirmations	(Room 208W)