

1 **ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.**

2 **§60-3A-3a. Liquor sampling.**

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

7 (b) At least five business days prior to the liquor sampling,
8 the Class A retail licensee shall submit a written proposal to the
9 commissioner requesting to hold a liquor sampling event, including:

10 (1) The day of the event;

11 (2) The location of the event;

12 (3) The times for the event; and

13 (4) The specific brand and flavor of the West Virginia product
14 to be sampled.

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

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

21 (1) One separate and individual sample serving per customer
22 verified to be twenty-one years of age or older; and

23 (2) One ounce in total volume.

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

- 1 (1) Be employees of the Class A retail licensee;
- 2 (2) Be at least twenty-one years of age or older; and
- 3 (3) Have specific knowledge of the West Virginia product being
- 4 sampled to convey to the customer.

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

- 9 (1) Under the age of twenty-one years; or
- 10 (2) Intoxicated.

11 (g) A liquor sampling event shall:

- 12 (1) Occur only inside the Class A retail licensee's licensed
- 13 premises; and
- 14 (2) Cease on or before 9:00 p.m. on any approved sampling day.

15 (h) Any liquor bottle used for sampling must be clearly and
16 conspicuously labeled "SAMPLE, NOT FOR RESALE". If the seal is
17 broken on any liquor bottle or if any liquor bottle is opened, then
18 that liquor bottle must be removed from the licensed premises
19 immediately following the event.

20 (i) Violations of this section are subject to the penalties
21 set forth in this article.

22 (j) The commissioner may propose emergency legislative rules
23 to implement the provisions of this section.

24 **§60-3A-4. Definitions.**

1 (a) "Active retail license" means a current license for a
2 retail outlet that has been open and in continuous operation for a
3 period of not less than twelve months prior to July 1, 2010, or
4 July 1 every ten years thereafter.

5 (b) "Active retail licensee" means a person who holds an
6 active retail license at the time of the effective date of the
7 amendments to this section during the first extraordinary session
8 of the Legislature in 2009 or that person's successor or any person
9 who holds an active retail license when it expires at the end of a
10 ten-year period.

11 (c) "Applicant" means any person who elects to pay a purchase
12 option for a Class A retail license, who bids for a retail license
13 or who seeks the commissioner's approval to purchase or otherwise
14 acquire a retail license from a retail licensee, in accordance with
15 the provisions of this article.

16 (d) "Application" means the form prescribed by the
17 commissioner which must be filed with the commissioner by any
18 person bidding for a retail license.

19 (e) "Board" means the Retail Liquor Licensing Board created by
20 this article.

21 (f) "Class A retail license" means a retail license permitting
22 the retail sale of liquor at a freestanding liquor retail outlet.

23 (g) "Class B retail license" means a retail license permitting
24 the sale of liquor at a mixed retail liquor outlet.

1 (h) "Current retail licensee" means a person who holds a
2 retail license at the time of the effective date of the amendments
3 to this section during the first extraordinary session of the
4 Legislature in 2009 or that person's successor or any person who
5 holds a retail license when it expires at the end of a ten-year
6 period.

7 (i) "Designated areas" means one or more geographic areas
8 within a market zone designated as such by the board.

9 (j) "Executive officer" means the president or other principal
10 officer, partner or member of an applicant or retail licensee, any
11 vice president or other principal officer, partner or member of an
12 applicant or retail licensee in charge of a principal business unit
13 or division, or any other officer, partner or member of an
14 applicant or retail licensee who performs a policy-making function.

15 (k) "Freestanding liquor retail outlet" means a retail outlet
16 that sells only liquor, beer, nonintoxicating beer and other
17 alcohol-related products, including tobacco related products.

18 (l) "Liquor" means alcoholic liquor as defined in section
19 five, article one of this chapter and also includes both wine and
20 fortified wines as those terms are defined in section two, article
21 eight of this chapter.

22 (m) "Liquor sampling event" means an event approved by the
23 commissioner, for a Class A retail licensee to hold a liquor
24 sampling during which only one specific brand of West Virginia

1 product may be sampled per day, per customer, twenty-one years of
2 age or older, as set out in section three-a of this article.

3 ~~(m)~~ (n) "Market zone" means a geographic area designated as
4 such by the board for the purpose of issuing retail licenses.

5 ~~(n)~~ (o) "Mixed retail liquor outlet" means a retail outlet
6 that sells liquor, beer, nonintoxicating beer and other alcohol-
7 related products, including tobacco-related products, in addition
8 to convenience and other retail products.

9 ~~(o)~~ (p) "Person" means an individual, firm, corporation,
10 association, partnership, limited partnership, limited liability
11 company or other entity, regardless of its form, structure or
12 nature.

13 ~~(p)~~ (q) "Retail license" means a license issued under the
14 provisions of this article permitting the sale of liquor at retail.

15 ~~(q)~~ (r) "Retail licensee" means the holder of a retail
16 license.

17 ~~(r)~~ (s) "Retail outlet" means a specific location where liquor
18 may be lawfully sold by a retail licensee under the provisions of
19 this article.

20 (t) "Sampling day" means any day of the week except Sunday,
21 that is approved, in writing, by the commissioner for a Class A
22 retail licensee to conduct a liquor sampling event.

23 (u) "West Virginia product" means all bourbon, brandy, cognac,
24 cordials, gin, grain alcohol, rye, rum, scotch, tequila, vermouth,

1 vodka, whiskey, apertifs, premixed cocktails, fortified wines,
2 spirit blends, marsala, sake, sherry and any other liquor types and
3 classes as approved by the commissioner and maintained on the ABCC
4 retail liquor product list.

NOTE: The purpose of this bill is to allow Class A retail licenses (as defined in chapter 60, Article 3A, section 4) or freestanding liquor retail outlets the ability to conduct responsible liquor sampling events on days of the week, other than Sunday. Violators of these sections are subject to civil and criminal penalties imposed by article 3A.

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

§60-3A-3a is new; therefore, strike-throughs and underscoring have been omitted.