

H. B. 2946

(By Delegates Skinner, Barrett, Skaff,
Ferns, Fleischauer and Poore)

[Introduced March 15, 2013; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §60-3A-18 of the Code of West Virginia,
1931, as amended; to amend and reenact §60-7-10 and §60-7-12
of said code; and to amend and reenact §60-8-34 of said code,
all relating to permitting the sale of alcoholic beverages on
Sunday mornings beginning at ten o'clock a.m..

Be it enacted by the Legislature of West Virginia:

That §60-3A-18 of the Code of West Virginia, 1931, as amended,
be amended and reenacted; that §60-7-10 and §60-7-12 of said code
be amended and reenacted; and that §60-8-34 of said code be amended
and reenacted, all to read as follows:

ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.

§60-3A-18. Days and hours retail licensees may sell liquor.

Retail licensees may not sell liquor on Sundays and Christmas
day, or between the hours of twelve midnight and eight o'clock
a.m., except that wine and fortified wines may be sold on those
days and at such times as authorized in section thirty-four,

1 article eight of this chapter: Provided, That retail licensees
2 that sell food may sell liquor on Sundays beginning at ten o'clock
3 a.m.

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

5 **§60-7-10. Duties and powers of commissioner.**

6 The commissioner is hereby authorized:

7 (a) To enforce the provisions of this article.

8 (b) To enter the premises of any licensee at reasonable times
9 for the purpose of inspecting the same, and determining the
10 compliance of said licensee with the provisions of this article and
11 any rules ~~and regulations~~ promulgated by the commissioner pursuant
12 to the provisions of this article.

13 (c) To promulgate such reasonable rules ~~and regulations~~ as may
14 be necessary for the execution and enforcement of the provisions of
15 this article, which may include, but ~~shall~~ may not be limited to,
16 the hours during which licensees may sell alcoholic liquors, and
17 the use, handling, service and sale of such alcoholic liquors:
18 Provided, That the rules shall authorize licensees to sell liquor
19 on Sundays beginning at ten o'clock a.m. Such rules ~~and~~
20 ~~regulations~~ shall be promulgated in accordance with the provisions
21 of article three, chapter twenty-nine-a of the code in like manner
22 as if said article three of said chapter twenty-nine-a were set
23 forth in extenso in this subdivision.

24 (d) To issue subpoenas and subpoenas duces tecum for the

1 purposes of conducting hearings under the provisions of section
2 thirteen of this article, which subpoenas and subpoenas duces tecum
3 shall be issued in the time, for the fees, and shall be enforced in
4 the manner specified in section one, article five, chapter twenty-
5 nine-a of this code with like effect as if said section one were
6 set forth in extenso in this subdivision.

7 The authority granted in subdivisions (a), (b), and (d) of
8 the commissioner.

9 **§60-7-12. Certain acts of licensee prohibited; criminal penalties.**

10 (a) It is unlawful for any licensee, or agent, employee or
11 member thereof, on such licensee's premises to:

12 (1) Sell or offer for sale any alcoholic liquors other than
13 from the original package or container;

14 (2) Authorize or permit any disturbance of the peace; obscene,
15 lewd, immoral or improper entertainment, conduct or practice,
16 gambling or any slot machine, multiple coin console machine,
17 multiple coin console slot machine or device in the nature of a
18 slot machine;

19 (3) Sell, give away or permit the sale of, gift to or the
20 procurement of any nonintoxicating beer, wine or alcoholic liquors
21 for or to, or permit the consumption of nonintoxicating beer, wine
22 or alcoholic liquors on the licensee's premises, by any person less
23 than twenty-one years of age;

24 (4) Sell, give away or permit the sale of, gift to or the

1 procurement of any nonintoxicating beer, wine or alcoholic liquors,
2 for or to any person known to be deemed legally incompetent, or for
3 or to any person who is physically incapacitated due to consumption
4 of nonintoxicating beer, wine or alcoholic liquor or the use of
5 drugs;

6 (5) Sell, give or dispense nonintoxicating beer, wine or
7 alcoholic liquors in or on any licensed premises or in any rooms
8 directly connected therewith, between the hours of three o'clock
9 a.m. and one o'clock p.m. on any Sunday: Provided, That licensees
10 may sell liquor on Sundays beginning at ten o'clock a.m. as
11 provided in section ten of this article;

12 (6) Permit the consumption by, or serve to, on the licensed
13 premises any nonintoxicating beer, wine or alcoholic liquors,
14 covered by this article, to any person who is less than twenty-one
15 years of age;

16 (7) With the intent to defraud, alter, change or misrepresent
17 the quality, quantity or brand name of any alcoholic liquor;

18 (8) Sell or offer for sale any alcoholic liquor to any person
19 who is not a duly elected or approved dues paying member in good
20 standing of said private club or a guest of such member;

21 (9) Sell, offer for sale, give away, facilitate the use of or
22 allow the use of carbon dioxide, cyclopropane, ethylene, helium or
23 nitrous oxide for purposes of human consumption except as
24 authorized by the commissioner;

1 (10) (A) Employ any person who is less than eighteen years of
2 age in a position where the primary responsibility for such
3 employment is to sell, furnish or give nonintoxicating beer, wine
4 or alcoholic liquors to any person;

5 (B) Employ any person who is between the ages of eighteen and
6 twenty-one who is not directly supervised by a person aged twenty-
7 one or over in a position where the primary responsibility for such
8 employment is to sell, furnish or give nonintoxicating beer, wine
9 or alcoholic liquors to any person; or

10 (11) Violate any reasonable rule of the commissioner.

11 (b) It is unlawful for any licensee to advertise in any news
12 media or other means, outside of the licensee's premises, the fact
13 that alcoholic liquors may be purchased thereat.

14 (c) Any person who violates any of the foregoing provisions is
15 guilty of a misdemeanor and, upon conviction thereof, shall be
16 fined not less than \$500 nor more than \$1,000, or ~~imprisoned in the~~
17 ~~county~~ confined in jail for a period not to exceed one year, or
18 both fined and ~~imprisoned~~ confined.

19 **ARTICLE 8. SALE OF WINES.**

20 **§60-8-34. When retail sales prohibited.**

21 It ~~shall be~~ is unlawful for a retailer, farm winery, wine
22 specialty shop retailer, private wine bed and breakfast, private
23 wine restaurant or private wine spa licensee, his or her servants,
24 agents or employees to sell or deliver wine between the hours of

1 two o'clock a.m. and one o'clock p.m. on Sundays, or between the
2 hours of two o'clock a.m. and seven o'clock a.m. on weekdays and
3 Saturdays: Provided, That licensees may sell wine for consumption
4 on the premises on Sundays beginning at ten o'clock a.m.

NOTE: The purpose of this bill is to permit the sale of alcoholic beverages on Sunday mornings beginning at ten o'clock a.m. by restaurants, private clubs and licensees that sell wine to be consumed on the premises.

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