

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 4455**

4
5 (By Delegates Manchin, Skinner, Caputo, Guthrie, Hunt, Skaff,
6 Sponaugle, Wells, Ambler and E. Nelson)

7 (Originating in the Committee on the Judiciary)

8 [February 14, 2014]

9
10 A BILL to amend and reenact §60-4-3a and §60-4-3b of the Code of
11 West Virginia, 1931, as amended; and to amend and reenact
12 §60-7-11 of said code, all relating to the sale of alcohol by
13 licensed manufacturers; authorizing licensed wineries, farm
14 wineries, distilleries and mini-distilleries to make retail
15 sales of wine and alcoholic liquors manufactured by the
16 winery, farm-winery, distillery or mini-distillery for
17 consumption off the premises on Sundays, beginning at ten
18 thirty a.m.; authorizing licensed wineries, farm wineries,
19 distilleries and mini-distilleries to offer complimentary
20 samples for consumption on the premises on Sundays, beginning
21 at ten thirty a.m.; and authorizing mini-distilleries which
22 manufacture less than fifty thousand gallons of alcoholic
23 liquor per year to seek and hold a separate license to operate
24 a private club on the premises of the distillery or
25 mini-distillery.

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

1 That §60-4-3a and §60-4-3b of the Code of West Virginia, 1931,
2 as amended, be amended and reenacted; and that §60-7-11 of said
3 code be amended and reenacted, all to read as follows:

4 **ARTICLE 4. LICENSES.**

5 **§60-4-3a. Distillery and mini-distillery license to manufacture
6 and sell.**

7 (a) *Sales of liquor.* -- An operator of a distillery or a
8 mini-distillery may offer liquor for retail sale to customers from
9 the distillery or the mini-distillery for consumption off premises
10 only. Except for free complimentary samples offered pursuant to
11 section one, article six of this chapter, or sales for consumption
12 offered under a valid private club license held by a mini-
13 distillery pursuant to article seven, chapter sixty of this code,
14 customers are prohibited from consuming any liquor on the premises
15 of the distillery or the mini-distillery. Mini-distilleries that
16 produce fifty thousand or more gallons of alcoholic liquor per year
17 may not hold a private club license.

18 (b) *Retail sales.* -- Every licensed distillery or
19 mini-distillery shall comply with the provisions of sections nine,
20 eleven, thirteen, sixteen, seventeen, eighteen, nineteen,
21 twenty-two, twenty-three, twenty-four, twenty-five and twenty-six,
22 article three-a of this chapter and the provisions of articles
23 three and four of this chapter applicable to liquor retailers and
24 distillers: Provided, That a licensed distillery or mini-distillery
25 may offer complimentary samples for consumption on premises and

1 make retail sales of alcoholic liquors manufactured by that
2 licensed distillery or mini-distillery, for consumption off the
3 premises on Sundays, beginning at ten thirty o'clock a.m.

4 (c) *Payment of taxes and fees.* -- The distillery or
5 mini-distillery shall pay all taxes and fees required of licensed
6 retailers and meet applicable licensing provisions as required by
7 this chapter and by rule of the commissioner.

8 (d) *Payments to market zone retailers.* -- Each distillery or
9 mini-distillery shall submit to the commissioner ten percent of the
10 gross sales price or each retail liquor sale for the value of all
11 sales at the distillery or the mini-distillery each month. This
12 collection shall be distributed by the commissioner, at least
13 quarterly, to each market zone retailer located in the distillery
14 or mini-distillery's market zone, proportionate to each market zone
15 retailer's annual gross prior years pretax value sales.

16 (e) *Limitations on licensees.* -- No distillery or
17 mini-distillery may sell more than three thousand gallons of
18 product at the distillery or mini-distillery location the initial
19 two years of licensure. The distillery or mini-distillery may
20 increase sales at the distillery or mini-distillery location by two
21 thousand gallons following the initial 24-month period of licensure
22 and may increase sales at the distillery or mini-distillery
23 location each subsequent 24-month period by two thousand gallons,
24 not to exceed ten thousand gallons a year of total sales at the
25 distillery or mini-distillery location. No licensed
26 mini-distillery may produce more than twenty thousand gallons per

1 calendar year at the mini-distillery location. No more than one
2 distillery or mini-distillery license may be issued to a single
3 person or entity and no person may hold both a distillery and a
4 mini-distillery license.

5 **§60-4-3b. Winery and farm winery license to manufacture and sell.**

6 (a) *Sales of wine.* -- An operator of a winery or farm winery
7 may offer wine produced by the winery or farm winery for retail
8 sale to customers from the winery or farm winery for consumption
9 off the premises only. Except for free complimentary samples
10 offered pursuant to section one, article six of this chapter,
11 customers are prohibited from consuming any wine on the premises of
12 the winery or farm winery, unless such winery or farm winery has
13 obtained a multicapacity winery or farm winery license.

14 (b) *Retail sales.* -- Every licensed winery or farm winery
15 shall comply with the provisions of articles three, four and eight
16 of this chapter as applicable to wine retailers, wineries and
17 suppliers when properly licensed in such capacities: Provided, That
18 a licensed winery or farm winery may offer complimentary samples
19 for consumption on premises and make retail sales of wine
20 manufactured by that licensed winery or farm winery, for
21 consumption off the premises on Sundays, beginning at ten thirty
22 o'clock a.m.

23 (c) *Payment of taxes and fees.* -- The winery or farm winery
24 shall pay all taxes and fees required of licensed wine retailers
25 and meet applicable licensing provisions as required by this
26 chapter and by rule of the commissioner. Each winery or farm

1 winery acting as its own supplier shall submit to the Tax
2 Commissioner the liter tax for all sales at the winery or farm
3 winery each month, as provided in article eight of this chapter.

4 (d) *Advertising.* -- A winery or farm winery may advertise a
5 particular brand or brands of wine produced by it, and the price of
6 the wine subject to federal requirements or restrictions.

7 (e) *Limitations on licensees.* -- A winery or farm winery must
8 maintain separate winery or farm winery supplier, retailer and
9 direct shipper licenses when acting in one or more of those
10 capacities, and must pay all associated license fees, unless such
11 winery or farm winery holds a license issued pursuant to the
12 provisions of subdivision (12), subsection (b), section three,
13 article eight of this chapter. A winery or farm winery, if holding
14 the appropriate licenses or a multicapacity winery or farm winery
15 license, may act as its own supplier; retailer for off-premises
16 consumption of its wine as specified in section two, article six of
17 this chapter; private wine restaurant; and direct shipper for wine
18 produced by the winery or farm winery. All wineries must use a
19 distributor to distribute and sell their wine in the state, except
20 for farm wineries. No more than one winery or farm winery license
21 may be issued to a single person or entity, and no person may hold
22 both a winery and a farm winery license.

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

24 **§60-7-11. Licensee must purchase alcoholic liquors from or through**
25 **commissioner or retail licensee; exceptions.**

26 (a) (1) All licensees shall purchase all alcoholic liquors sold

1 by them from the West Virginia Alcohol Beverage Control
2 Commissioner at prices established by the commissioner for sales of
3 the alcoholic liquors to the public generally or from any retail
4 licensee licensed under the provisions of article three-a of this
5 chapter, except that the licensees may purchase those wines
6 permitted to be sold at retail pursuant to article eight of this
7 chapter from those distributors licensed pursuant to said article
8 at the same prices the distributors sell the wines to retailers
9 licensed pursuant to ~~said~~ that article and distilleries or
10 mini-distilleries licensed under article four, chapter sixty of
11 this code may sell alcoholic liquor manufactured on the premises of
12 the distillery or mini-distillery, other than in sealed packages,
13 at a separately licensed private club established on the premises
14 of the mini-distillery.

15 (2) A licensee may by contract approved by the commissioner
16 receive deliveries of alcoholic liquor from a retail liquor store,
17 and the provisions of sections twelve and thirteen, article six of
18 this chapter shall not apply to the transportation of that
19 alcoholic liquor.

20 (b) In all reports filed under section sixteen, article
21 fifteen, chapter eleven of this code, retail licensees licensed
22 under the provisions of article three-a of this chapter shall
23 separately identify the amount of sales tax on sales of liquor to
24 licensees in the manner required by the Tax Commissioner.

25 (c) Notwithstanding the provisions of section thirty, article
26 fifteen, chapter eleven of this code to the contrary, the amount of
27 the sales taxes collected by the Tax Commissioner shall be

1 deposited in a revolving fund account in the State Treasurer's
2 Office, designated the "Drunk Driving Prevention Fund", and
3 administered by the commission on drunk driving prevention, subject
4 to appropriations by the Legislature.

NOTE: The purpose of this bill is to permit the retail sale of wine produced by licensed wineries and farm wineries at the wineries and farm wineries between the hours of ten thirty a.m. and 1:00 p.m. on Sundays, and to permit the retail sale of alcoholic liquors manufactured and sold by licensed distilleries and mini-distilleries at the licensed distillery or mini-distillery on Sundays, beginning at 10:30 a.m. The bill would also permit licensed wineries, farm wineries, distilleries and mini-distilleries to offer complimentary samples for consumption on premises on Sundays, beginning at 10:30 a.m. Finally, the bill would permit mini-distilleries which produce less than 50,000 gallons of alcoholic liquor per year to seek and hold a separate license for a private club located on the premises of the mini-distillery.

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