

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 450**

4 (By Senators Walters, Blair, Carmichael, McCabe, Palumbo and
5 Wells)

6 _____
7 [Originating in the Committee on the Judiciary;
8 reported February 5, 2014.]
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12 A BILL to amend and reenact §60-1-5 of the Code of West Virginia,
13 1931, as amended, relating to the sale and consumption of
14 alcoholic liquors in outdoor dining areas adjoining an ABCA-
15 licensed facility.

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

17 That §60-1-5 of the Code of West Virginia, 1931, as amended,
18 be amended and reenacted to read as follows:

19 **ARTICLE 1. GENERAL PROVISIONS.**

20 **§60-1-5. Definitions.**

21 For the purposes of this chapter:

22 "Alcohol" shall mean ethyl alcohol whatever its origin and
23 shall include synthetic ethyl alcohol but not denatured alcohol.

24 "Beer" shall mean any beverage obtained by the fermentation of
25 barley, malt, hops or any other similar product or substitute, and
26 containing more alcohol than that of nonintoxicating beer.

27 "Nonintoxicating beer" shall mean any beverage, obtained by
28 the fermentation of barley, malt, hops or similar products or

1 substitute, and containing not more alcohol than that specified by
2 section two, article sixteen, chapter eleven of this code.

3 "Wine" shall mean any alcoholic beverage obtained by the
4 fermentation of the natural content of fruits, or other
5 agricultural products, containing sugar.

6 "Spirits" shall mean any alcoholic beverage obtained by
7 distillation and mixed with potable water and other substances in
8 solution, and includes brandy, rum, whiskey, cordials and gin.

9 "Alcoholic liquor" shall include alcohol, beer, wine and
10 spirits, and any liquid or solid capable of being used as a
11 beverage, but shall not include nonintoxicating beer.

12 "Original package" shall mean any closed or sealed container
13 or receptacle used for holding alcoholic liquor.

14 "Sale" shall mean any transfer, exchange or barter in any
15 manner or by any means, for a consideration, and shall include all
16 sales made by principal, proprietor, agent or employee.

17 "Selling" shall include solicitation or receipt of orders;
18 possession for sale; and possession with intent to sell.

19 "Person" shall mean an individual, firm, partnership, limited
20 partnership, corporation or voluntary association.

21 "Manufacture" means to distill, rectify, ferment, brew, make,
22 mix, concoct, process, blend, bottle or fill an original package
23 with any alcoholic liquor.

24 "Manufacturer" shall mean any person engaged in the
25 manufacture of any alcoholic liquor, and among others includes a
26 distiller, a rectifier, a wine maker and a brewer.

27 "Brewery" shall mean an establishment where beer is
28 manufactured or in any way prepared.

1 "Winery" shall mean an establishment where wine is
2 manufactured or in any way prepared.

3 "Distillery" shall mean an establishment where alcoholic
4 liquor other than wine or beer is manufactured or in any way
5 prepared.

6 "Public place" shall mean any place, building or conveyance to
7 which the public has, or is permitted to have access, including
8 restaurants, soda fountains, hotel dining rooms, lobbies and
9 corridors of hotels and any highway, street, lane, park or place of
10 public resort or amusement: *Provided*, That the term "public place"
11 shall not mean or include any of the above-named places or any
12 portion or portions thereof which qualify and are licensed under
13 the provisions of this chapter to sell alcoholic liquors for
14 consumption on the premises: *Provided, however, That the term*
15 "public place" shall not mean or include any legally demarcated
16 area designated solely for the consumption of beverages and freshly
17 prepared food that directly connects and adjoins any portion or
18 portions of a premises that qualifies and is licensed under the
19 provisions of this chapter to sell alcoholic liquors for
20 consumption thereupon.

21 "State liquor store" shall mean a store established and
22 operated by the commission under this chapter for the sale of
23 alcoholic liquor in the original package for consumption off the
24 premises.

25 "An agency" shall mean a drugstore, grocery store or general
26 store designated by the commission as a retail distributor of
27 alcoholic liquor for the West Virginia Alcohol Beverage Control
28 Commissioner.

1 "Department" shall mean the organization through which the
2 commission exercises powers imposed upon it by this chapter.

3 "Commissioner" or "commission" shall mean the West Virginia
4 Alcohol Beverage Control Commissioner.

5 "Intoxicated" shall mean having one's faculties impaired by
6 alcohol or other drugs to the point where physical or mental
7 control or both are markedly diminished.

(NOTE: The purpose of this bill is to define "public place" to clarify that facilities duly licensed to sell alcoholic liquors on the premises may do so in demarcated outdoor dining areas adjoining the ABCA-licensed facility.

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