

1 **H. B. 4436**

2  
3 (By Delegates E. Nelson, Skaff, Storch, Pasdon,  
4 Reynolds, Skinner, Manchin, Espinosa, Ambler,  
5 Poore and Hunt)  
6

7 [Introduced February 7, 2014; referred to the  
8 Committee on the Judiciary.]  
9

10 A BILL to amend and reenact §60-1-5 of the Code of West Virginia,  
11 1931, as amended, relating to providing exceptions to the  
12 definition of "public place."

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

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

16 **ARTICLE 1. GENERAL PROVISIONS.**

17 **§60-1-5. Definitions.**

18 For the purposes of this chapter:

19 "Alcohol" ~~shall mean~~ means ethyl alcohol whatever its origin  
20 and ~~shall include~~ includes synthetic ethyl alcohol but not  
21 denatured alcohol.

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

1 "Nonintoxicating beer" ~~shall mean~~ means any beverage, obtained  
2 by the fermentation of barley, malt, hops, or similar products or  
3 substitute, and containing not more alcohol than that specified by  
4 section two, article sixteen, chapter eleven.

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

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

11 "Alcoholic liquor" ~~shall include~~ includes alcohol, beer, wine  
12 and spirits, and any liquid or solid capable of being used as a  
13 beverage, but ~~shall~~ does not include nonintoxicating beer.

14 "Original package" ~~shall mean~~ means any closed or sealed  
15 container or receptacle used for holding alcoholic liquor.

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

19 "Selling" ~~shall include~~ includes solicitation or receipt of  
20 orders; possession for sale; and possession with intent to sell.

21 "Person" ~~shall mean~~ means an individual, firm, partnership,  
22 limited partnership, corporation or voluntary association.

23 "Manufacture" means to distill, rectify, ferment, brew, make,  
24 mix, concoct, process, blend, bottle, or fill an original package

1 with any alcoholic liquor.

2 "Manufacturer" ~~shall mean~~ means any person engaged in the  
3 manufacture of any alcoholic liquor, and among others includes a  
4 distiller, a rectifier, a wine maker and a brewer.

5 "Brewery" ~~shall mean~~ means an establishment where beer is  
6 manufactured or in any way prepared.

7 "Winery" ~~shall mean~~ means an establishment where wine is  
8 manufactured or in any way prepared.

9 "Distillery" ~~shall mean~~ means an establishment where alcoholic  
10 liquor other than wine or beer is manufactured or in any way  
11 prepared.

12 "Public place" ~~shall mean~~ means any place, building or  
13 conveyance to which the public has, or is permitted to have access,  
14 including restaurants, soda fountains, hotel dining rooms, lobbies,  
15 and corridors of hotels and any highway, street, lane, park or  
16 place of public resort or amusement: *Provided*, That the term  
17 "public place" ~~shall~~ does not mean or include any of the  
18 above-named places or any portion ~~or portions thereof~~ of the places  
19 which qualify and are licensed under the provisions of this chapter  
20 to sell alcoholic liquors for consumption on the premises:  
21 *Provided, however, That the term "public place" does not mean or*  
22 *include any demarcated dining area adjoining any portion of a place*  
23 *included in this paragraph which qualifies and is licensed under*  
24 *the provisions of this chapter to sell alcoholic liquors for*

1 consumption on the premises.

2 "State liquor store" ~~shall mean~~ means a store established and  
3 operated by the commission under this chapter for the sale of  
4 alcoholic liquor in the original package for consumption off the  
5 premises.

6 "An agency" ~~shall mean~~ means a drugstore, grocery store or  
7 general store designated by the commission as a retail distributor  
8 of alcoholic liquor for the West Virginia Alcohol Beverage Control  
9 Commissioner.

10 "Department" ~~shall mean~~ means the organization through which  
11 the commission exercises powers imposed upon it by this chapter.

12 "Commissioner" or "Commission" ~~shall mean~~ means the West  
13 Virginia Alcohol Beverage Control Commissioner.

14 "Intoxicated" ~~shall mean~~ means having one's faculties impaired  
15 by alcohol or other drugs to the point where physical or mental  
16 control or both are markedly diminished.

NOTE: The purpose of this bill is to provide exceptions to the  
definition of "public place" found in this article.

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