

**Senate Bill No. 574**

(By Senators Trump, Miller, Woelfel,  
Snyder, Beach, Gaunch, Karnes,  
D. Hall, Kirkendoll and Williams)

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[Originating in the Committee on  
the Judiciary;  
reported February 26, 2015.]

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A BILL to amend and reenact §60-3A-17 of the Code of West Virginia, 1931, as amended; and to amend and reenact §60-4-3 and §60-4-3a of said code, all relating to sales of liquor by distilleries and mini-distilleries.

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

That §60-3A-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §60-4-3 and §60-4-3a as amended, be amended and reenacted to read as follows:

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

**§60-3A-17. Wholesale prices set by commissioner; retail licensees to purchase liquor from state; transportation and storage; method of payment.**

1 (a) The commissioner shall fix wholesale prices for the sale  
2 of liquor, other than wine, to retail licensees. The commissioner

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1 shall sell liquor, other than wine, to retail licensees according to a  
2 uniform pricing schedule. The commissioner shall obtain, if  
3 possible, upon request, any liquor requested by a retail licensee and  
4 those permitted to manufacture and sell liquor pursuant to section  
5 three, article four of this chapter.

6 (b) Wholesale prices shall be established in order to yield  
7 a net profit for the General Revenue Fund of not less than  
8 \$6,500,000 annually on an annual volume of business equal to the  
9 average for the past three years. The net revenue derived from the  
10 sale of alcoholic liquors shall be deposited into the General  
11 Revenue Fund in the manner provided in section seventeen, article  
12 three of this chapter.

13 (c) ~~The~~ Notwithstanding any provision of this code to the  
14 contrary, the commissioner shall specify the maximum wholesale  
15 markup percentage which may be applied to the prices paid by the  
16 commissioner for all liquor, other than wine, in order to determine  
17 the prices at which all liquor, other than wine, will be sold to retail  
18 licensees. A retail licensee shall purchase all liquor, other than  
19 wine, for resale in this state only from the commissioner, and the  
20 provisions of sections twelve and thirteen, article six of this chapter  
21 shall not apply to the transportation of the liquor: *Provided, That*  
22 a retail licensee shall purchase wine from a wine distributor who is

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1 duly licensed under article eight of this chapter. All liquor, other  
2 than wine, purchased by retail licensees shall be stored in the state  
3 at the retail outlet or outlets operated by the retail licensee:  
4 *Provided, however,* That the commissioner, in his or her discretion,  
5 may upon written request permit a retail licensee to store liquor at  
6 a site other than the retail outlet or outlets.

7 (d) The sale of liquor by the commissioner to retail  
8 licensees shall be paid by electronic funds transfer which shall be  
9 initiated by the commissioner on the business day following the  
10 retail licensees order or by money order, certified check or cashier's  
11 check which shall be received by the commissioner at least twenty-  
12 four hours prior to the shipping of the alcoholic liquors: *Provided,*  
13 That if a retail licensee posts with the commissioner an irrevocable  
14 letter of credit or bond with surety acceptable to the commissioner  
15 from a financial institution acceptable to the commissioner  
16 guaranteeing payment of checks, then the commissioner may accept  
17 the retail licensee's checks in an amount up to the amount of the  
18 letter of credit.

19 (e) (1) A retail licensee may not sell liquor to persons  
20 licensed under the provisions of article seven of this chapter at less  
21 than one hundred ten percent of the retail licensee's cost as defined  
22 in section six, article eleven-a, chapter forty-seven of this code.

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1           (2) A retail licensee may not sell liquor to the general public  
2 at less than one hundred ten percent of the retail licensee's cost as  
3 defined in section six, article eleven-a, chapter forty-seven of this  
4 code.

5 **§60-4-3. To whom licensed manufacturer may sell.**

6           A person who is licensed to manufacture alcoholic liquors  
7 in this state may sell liquors in this state only to the West Virginia  
8 Alcohol Beverage Control Commissioner and to wholesalers and  
9 retailers licensed as provided in this chapter: *Provided*, That a  
10 holder of a winery or a farm winery license may sell wines and a  
11 holder of a distillery or a mini-distillery license may sell alcoholic  
12 liquors manufactured by it in this state in accordance with the  
13 provisions of section three-a of this article and section two, article  
14 six of this chapter. Hours of retail sale by a winery or a farm  
15 winery or distillery or a mini-distillery are subject to regulation by  
16 the commissioner. A winery, distillery, farm winery or mini-  
17 distillery may sell and ship alcoholic liquors outside of the state  
18 subject to provisions of this chapter.

19 **§60-4-3a. Distillery and mini-distillery license to manufacture**  
20 **and sell.**

21           (a) *Sales of liquor.* -- An operator of a distillery or a mini-  
22 distillery may offer liquor for retail sale to customers from the

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1 distillery or the mini-distillery for consumption off premises only.  
2 Except for free complimentary samples offered pursuant to section  
3 one, article six of this chapter, customers are prohibited from  
4 consuming any liquor on the premises of the distillery or the mini-  
5 distillery.

6 (b) *Retail sales.* -- Every licensed distillery or mini-  
7 distillery shall comply with the provisions of sections nine, eleven,  
8 thirteen, sixteen, seventeen, eighteen, nineteen, twenty-two, twenty-  
9 three, twenty-four, twenty-five and twenty-six, article three-a of this  
10 chapter and the provisions of articles three and four of this chapter  
11 applicable to liquor retailers and distillers.

12 (c) *Payment of taxes and fees.* -- The distillery or mini-  
13 distillery shall pay all taxes and fees required of licensed retailers  
14 and meet applicable licensing provisions as required by this chapter  
15 and by rule of the commissioner, except for payments of the  
16 wholesale markup percentage and the handling fee provided by rule  
17 of the commissioner: *Provided*, That all liquor for sale to customers  
18 from the distillery or the mini-distillery for off-premises  
19 consumption shall be subject of a five percent wholesale markup  
20 fee and an 80 cents per case bailment fee to be paid to the to the  
21 commissioner: *Provided, however*, That no liquor sold by the  
22 distillery or mini-distillery shall be priced less than the price set by

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1 the commissioner pursuant to section seventeen, article three-a of  
2 this chapter.

3           (d) *Payments to market zone retailers.* -- Each distillery or  
4 mini-distillery shall submit to the commissioner ~~ten~~ two percent of  
5 the gross sales price or each retail liquor sale for the value of all  
6 sales at the distillery or the mini-distillery each month. This  
7 collection shall be distributed by the commissioner, at least  
8 quarterly, to each market zone retailer located in the distillery or  
9 mini-distillery's market zone, proportionate to each market zone  
10 retailer's annual gross prior years pretax value sales. The maximum  
11 amount of market zone payments that a distillery or mini-distillery  
12 shall be required to submit to the commissioner is \$15,000 per  
13 annum.

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

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1 location. No licensed mini-distillery may produce more than  
2 ~~twenty~~ fifty thousand gallons per calendar year at the mini-distillery  
3 location. No more than one distillery or mini-distillery license may  
4 be issued to a single person or entity and no person may hold both  
5 a distillery and a mini-distillery license.