

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 3001**

**FISCAL  
NOTE**

**2015 Carryover**

(BY DELEGATES OVERINGTON, ROWAN AND BUTLER)

[Introduced January 13, 2016; referred to the  
Committee on the Judiciary then Finance.]

1 A BILL to amend and reenact §60-7-10 and §60-7-12 of the Code of West Virginia, 1931, as  
 2 amended, all relating to requiring private clubs to be closed from two o'clock a.m. to seven  
 3 o'clock a.m. on weekdays; requiring patrons of those clubs to exit the club no later than  
 4 sixty minutes after the dispensing of nonintoxicating beer, wine or alcoholic liquors has  
 5 ceased; providing criminal penalties; and updating statutory language.

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

1 That §60-7-10 and §60-7-12 of the Code of West Virginia, 1931, as amended, be amended  
 2 and reenacted, all to read as follows:

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

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

- 1 The commissioner is hereby authorized:
- 2 (a) To enforce ~~the provisions of~~ this article.
  - 3 (b) To enter the premises of any licensee at reasonable times for the ~~purpose~~ purposes  
 4 of inspecting the ~~same~~ the premises and determining ~~the compliance of said~~ whether the licensee  
 5 has complied with ~~the provisions of~~ this article and any rules and regulations promulgated by the  
 6 commissioner pursuant to ~~the provisions of~~ this article.
  - 7 (c) To ~~promulgate such~~ propose for promulgation reasonable rules and regulations as may  
 8 be necessary for the execution and enforcement of ~~the provisions of~~ this article, which may  
 9 include, but shall not be limited to, ~~the hours during which licensees may sell alcoholic liquors,~~  
 10 ~~and the use, handling, service and sale of such alcoholic liquors.~~ Such The commissioner shall  
 11 propose rules and regulations ~~shall be promulgated~~ for promulgation in accordance with ~~the~~  
 12 ~~provisions of article three, chapter twenty-nine-a of the~~ this code. ~~in like manner as if said article~~  
 13 ~~three of said chapter twenty-nine-a were set forth in extenso in this subdivision.~~
  - 14 (d) To issue subpoenas and subpoenas duces tecum for the purposes of conducting

15 hearings under ~~the provisions of~~ section thirteen of this article, which ~~subpoenas and subpoenas~~  
 16 ~~duces tecum~~ shall be issued in the time, for the fees, and shall be enforced in the manner specified  
 17 in section one, article five, chapter twenty-nine-a of this code ~~with like effect as if said section one~~  
 18 ~~were set forth in extenso in this subdivision.~~

19 (e) The authority granted in ~~subdivisions~~ subsections (a), (b) and (d) of this section may  
 20 also be exercised by the duly authorized agents of the commissioner.

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

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

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

5 (2) Authorize or permit any disturbance of the peace; obscene, lewd, immoral or improper  
 6 entertainment, conduct or practice, gambling or any slot machine, multiple coin console machine,  
 7 multiple coin console slot machine or device in the nature of a slot machine, except as provided  
 8 in article twenty-two-a, chapter twenty-nine of this code;

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

12 (4) Sell, give away or permit the sale of, gift to or the procurement of any nonintoxicating  
 13 beer, wine or alcoholic liquors, for or to any person known to be deemed legally incompetent, or  
 14 for or to any person who is physically incapacitated due to consumption of nonintoxicating beer,  
 15 wine or alcoholic liquor or the use of drugs;

16 (5) (A) Sell, give or dispense nonintoxicating beer, wine or alcoholic liquors in or on any  
 17 licensed premises or in any rooms directly connected therewith, between the hours of ~~three~~ two

18 o'clock a.m. and one o'clock p.m. on any Sunday, or between the hours of two o'clock a.m. and  
19 seven o'clock a.m. on any weekday; and

20 (B) Any patron present on the licensed premises after the sale or dispensing of  
21 nonintoxicating beer, wine or alcoholic liquors has ceased, as provided in paragraph (A) of this  
22 subdivision, shall have a reasonable time, not to exceed sixty minutes, to vacate the premises;

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

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

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

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

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

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

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

41 (b) It is unlawful for any licensee to advertise in any news media or other means, outside

42 of the licensee's premises, the fact that alcoholic liquors may be purchased ~~thereat~~ there.

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

NOTE: The purpose of this bill is to require private clubs to be closed from two o'clock a.m. to seven o'clock a.m. on weekdays. The bill requires patrons of those clubs to exit the club not later than sixty minutes after the dispensing of nonintoxicating beer, wine or alcoholic liquors has ceased. The bill provides criminal penalties. The bill also updates statutory language.

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