

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4622

BY DELEGATES UPSON, ESPINOSA, HOUSEHOLDER,
DUKE, HOWELL, FOLK, BLAIR, E. NELSON, ELLINGTON,
STORCH AND TRECOST

[Introduced February 19, 2016; Referred
to the Committee on Roads and Transportation then
the Judiciary.]

1 A BILL to amend and reenact §60-7-12 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §60-8-34 of said code, all relating to the sale of alcoholic beverages
3 on Sundays by private licensees; requiring the county commissions to conduct an option
4 election on the questions of whether to authorize licensed private clubs to sell
5 nonintoxicating beer, wine and alcoholic liquors between the hours of ten-thirty o'clock
6 a.m. and one o'clock p.m. on Sundays and restrict them from doing so between the hours
7 of three o'clock a.m. and seven o'clock a.m. on any weekday or Saturday; and requiring
8 the county commissions conduct an option election on the question of whether to permit
9 a licensed private bed and breakfast, private wine restaurant or private wine spa to sell
10 wine for consumption on the licensed premises between the hours of ten-thirty o'clock
11 a.m. and one o'clock p.m. on Sundays.

Be it enacted by the Legislature of West Virginia:

1 That § 60-7-12 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted; and that §60-8-34 of said code be amended and reenacted, all to read as follows:

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

**§60-7-12. Certain acts of licensee prohibited; county option election to determine whether
to opt in to change hours in which licensee is prohibited from sales, etc. of beer,
wine or liquor; 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;

8 (3) Sell, give away or permit the sale of, gift to or the procurement of any nonintoxicating

9 beer, wine or alcoholic liquors for or to, or permit the consumption of nonintoxicating beer, wine
10 or alcoholic liquors on the licensee's premises, by any person less than twenty-one years of age;

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

15 (5) Sell, give or dispense nonintoxicating beer, wine or alcoholic liquors in or on any
16 licensed premises or in any rooms directly connected therewith, between the hours of three
17 o'clock a.m. and one o'clock p.m. on any Sunday: Provided, That the county commission of any
18 county shall conduct a county option election on the question of whether to opt in to changing the
19 hours in which licensees are not permitted to sell, give or dispense nonintoxicating beer, wine or
20 alcoholic liquors in or on a licensee's premises, to between the hours of three o'clock a.m. and
21 ten-thirty o'clock a.m. on any Sunday and between the hours of three o'clock a.m. and seven
22 o'clock a.m. on any weekday or Saturday. The option election on this question may be placed on
23 the ballot in each county at any general election. The county commission of the county shall give
24 notice to the public of the election by publication of the notice as a Class II-0 legal advertisement
25 in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication
26 area for publication shall be the county in which the election is to be held. The date of the last
27 publication of the notice shall fall on a date within the period of the fourteen consecutive days next
28 preceding the election. On the local option election ballot shall be printed the following: "Shall the
29 hours in which private establishments are prohibited to sell, give or dispense beer, wine or
30 alcoholic liquors be changed from between the hours of three o'clock a.m. and one o'clock p.m.
31 on Sunday to three o'clock a.m. and ten-thirty o'clock a.m. on Sunday and between the hours of
32 three o'clock a.m. and seven o'clock a.m. on any weekday or Saturday?"

33 Yes No

34 (Place a cross mark in the square opposite your choice.)

35 The ballots shall be counted, returns made and canvassed as in general elections, and
36 the results certified by the commissioners of election to the county commission. The county
37 commission shall, without delay, certify the result of the election. Upon receipt of the results of
38 the election, in the event a majority of the votes are marked "Yes" all applicable licensees shall
39 be prohibited to sell, give or dispense beer, wine or alcoholic liquors from three o'clock a.m. and
40 ten-thirty o'clock a.m. on Sunday and between the hours of three o'clock a.m. and seven o'clock
41 a.m. on any weekday or Saturday. In the event a majority of the votes are marked "No" all
42 applicable licensees will be required to comply with current law requiring that no beer, wine or
43 alcoholic liquors may be sold, given or dispensed between the hours of three o'clock a.m. and
44 one o'clock p.m.

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

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

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

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

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

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

61 liquors to any person; or

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

63 (b) It is unlawful for any licensee to advertise in any news media or other means, outside
64 of the licensee's premises, the fact that alcoholic liquors may be purchased thereat.

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

ARTICLE 8. SALE OF WINES.

§60-8-34. When retail sales prohibited; county option election to determine whether to opt in to change hours in which licensee is prohibited from sales of wine.

1 It shall be unlawful for a retailer, farm winery, wine specialty shop retailer, private wine
2 bed and breakfast, private wine restaurant or private wine spa licensee, his or her servants,
3 agents or employees to sell or deliver wine between the hours of two o'clock a.m. and one o'clock
4 p.m. on Sundays, or between the hours of two o'clock a.m. and seven o'clock a.m. on weekdays
5 and Saturdays: Provided, That the county commission of any county shall conduct a county option
6 election on the question of whether to opt in to permitting a private wine bed and breakfast, a
7 private wine restaurant or private wine spa licensee to sell wine for consumption on the licensee's
8 premises between the hours of ten-thirty o'clock a.m. and one o'clock p.m. on Sundays. The
9 option election on the question may be placed on the ballot in each county at any general election.
10 The county commission of the county shall give notice to the public of the election by publication
11 of the notice as a Class II-0 legal advertisement in compliance with the provisions of article three,
12 chapter fifty-nine of this code, and the publication area for publication shall be the county in which
13 the election is to be held. The date of the last publication of the notice shall fall on a date within
14 the period of the fourteen consecutive days next preceding the election. On the local option
15 election ballot shall be printed the following: "Shall a private wine bed and breakfast, a private
16 wine restaurant or a private wine spa licensee be permitted to sell wine for consumption on the

17 licensee's premises between the hours of ten-thirty o'clock a.m. and one o'clock p.m. on
18 Sundays?"

19 Yes No

20 (Place a cross mark in the square opposite our choice.)

21 The ballots shall be counted, returns made and canvassed as in general elections, and
22 the results certified by the commissioners of election to the county commission. The county
23 commission shall, without delay, certify the result of the election. Upon receipt of the results of
24 the election, in the event a majority of the votes are marked "Yes" all applicable licensees shall
25 be permitted to sell wine for consumption on the licensee's premises between the hours of ten-
26 thirty o'clock a.m. and one o'clock p.m. on Sundays. In the event a majority of the votes are
27 marked "No", all applicable licensees will not be permitted to sell wine for consumption between
28 the hours of ten-thirty o'clock a.m. and one o'clock p.m. on Sundays.

NOTE: The purpose of this bill is to require the county commissions to conduct an option election on the questions of whether to authorize licensed private clubs to sell nonintoxicating beer, wine and alcoholic liquors between the hours of 10:30 a.m. and 1:00 p.m. on Sundays and restrict them from doing so between the hours of 3:00 a.m. and 7:00 a.m. on any weekday or Saturday. The bill also requires the county commissions to conduct an option election on the question of whether to permit a licensed private bed and breakfast, private wine restaurant or private wine spa to sell wine for consumption on the licensed premises between the hours of 10:30 a.m. and 1:00 p.m. on Sundays.

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