

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4720

BY DELEGATES PERDUE, RODIGHIERO, FLEISCHAUER,

FLUHARTY AND BATES

[Introduced February 23, 2016; referred to the
Committee on Health and Human Resources then the
Judiciary.]

1 A BILL to amend and reenact §60-1-5 of the Code of West Virginia, 1931, as amended; and to
2 amend said code by adding thereto a new section, designated §60-3-26, all relating to
3 prohibiting the sale and consumption of powdered alcohol; providing exceptions; and
4 defining a term.

Be it enacted by the Legislature of West Virginia:

1 That §60-1-5 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted; and that said code be amended by adding thereto a new section, designated §60-3-
3 26, all to read as follows:

ARTICLE 1. GENERAL PROVISIONS.

§60-1-5. Definitions.

1 For the purposes of this chapter:

2 “Alcohol” shall mean ethyl alcohol whatever its origin and shall include synthetic ethyl
3 alcohol but not denatured alcohol.

4 “Beer” shall mean any beverage obtained by the fermentation of barley, malt, hops or any
5 other similar product or substitute, and containing more alcohol than that of nonintoxicating beer.

6 “Nonintoxicating beer” shall mean any beverage obtained by the fermentation of barley,
7 malt, hops or similar products or substitute and containing not more alcohol than that specified by
8 section two, article sixteen, chapter eleven of this code.

9 “Wine” shall mean any alcoholic beverage obtained by the fermentation of the natural
10 content of fruits, or other agricultural products, containing sugar.

11 “Spirits” shall mean any alcoholic beverage obtained by distillation and mixed with potable
12 water and other substances in solution and includes brandy, rum, whiskey, cordials and gin.

13 “Alcoholic liquor” shall include alcohol, beer, wine and spirits and any liquid or solid
14 capable of being used as a beverage, but shall not include nonintoxicating beer.

15 “Original package” shall mean any closed or sealed container or receptacle used for
16 holding alcoholic liquor.

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

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

21 “Person” shall mean an individual, firm, partnership, limited partnership, corporation or
22 voluntary association.

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

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

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

29 “Winery” shall mean an establishment where wine is manufactured or in any way
30 prepared.

31 “Distillery” shall mean an establishment where alcoholic liquor other than wine or beer is
32 manufactured or in any way prepared.

33 “Powdered alcohol” shall mean a powdered or crystalline substance that contains any
34 amount of alcohol for direct use or reconstitution.

35 “Public place” shall mean any place, building or conveyance to which the public has, or is
36 permitted to have access, including restaurants, soda fountains, hotel dining rooms, lobbies and
37 corridors of hotels and any highway, street, lane, park or place of public resort or amusement:
38 *Provided*, That the term “public place” shall not mean or include any of the above-named places
39 or any portion or portions thereof which qualify and are licensed under the provisions of this
40 chapter to sell alcoholic liquors for consumption on the premises: *Provided, however*, That the
41 term “public place” shall not mean or include any legally demarcated area designated solely for
42 the consumption of beverages and freshly prepared food that directly connects and adjoins any

43 portion or portions of a premises that qualifies and is licensed under the provisions of this chapter
44 to sell alcoholic liquors for consumption thereupon: *Provided further*, That the term “public place”
45 shall also not include a facility constructed primarily for the use of a Division I college that is a
46 member of the National Collegiate Athletic Association, or its successor, and used as a football,
47 basketball, baseball, soccer or other Division I sports stadium which holds a special license to sell
48 wine pursuant to the provisions of section three, article eight of this chapter, in the designated
49 areas of sale and consumption of wine and other restrictions established by that section and the
50 terms of the special license issued thereunder.

51 “State liquor store” shall mean a store established and operated by the commission under
52 this chapter for the sale of alcoholic liquor in the original package for consumption off the
53 premises.

54 “An agency” shall mean a drugstore, grocery store or general store designated by the
55 commission as a retail distributor of alcoholic liquor for the West Virginia Alcohol Beverage Control
56 Commissioner.

57 “Department” shall mean the organization through which the commission exercises
58 powers imposed upon it by this chapter.

59 “Commissioner” or “commission” shall mean the West Virginia Alcohol Beverage Control
60 Commissioner.

61 “Intoxicated” shall mean having one’s faculties impaired by alcohol or other drugs to the
62 point where physical or mental control or both are markedly diminished.

ARTICLE 3. SALES BY COMMISSIONER.

§60-3-26. Sale or use of powdered alcohol prohibited.

1 No person may sell or use powdered alcohol as an alcoholic liquor or nonintoxicating beer
2 or use powdered alcohol to create an alcoholic liquor or nonintoxicating beer. This section does
3 not apply to the use of powdered alcohol for bona fide research purposes by:

4 (1) Health care providers that operate primarily for the purpose of conducting scientific

- 5 research;
- 6 (2) State institutions;
- 7 (3) Private colleges or universities; and
- 8 (4) Pharmaceutical and biotechnology companies.

NOTE: The purpose of this bill is to prohibit the sale and consumption of powdered alcohol. The bill provides exceptions and defines a term.

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