

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Senate Bill 290

BY SENATORS WELD, STOLLINGS, TAKUBO AND RUCKER

[Originating in the Committee on Economic
Development; reported on March 11, 2017]

1 A BILL to amend and reenact §60-4-3a of the Code of West Virginia, 1931, as amended, relating
2 to authorizing operators of a distillery or mini-distillery to offer for consumption liquor on
3 the premises if purchased and consumed on the premises of the distillery or mini-distillery;
4 and allowing distilleries and mini-distilleries to sell and serve alcohol beginning at 1:00
5 p.m. or 10:00 a.m. on Sundays if that county permits the sale of alcohol at that time.

Be it enacted by the Legislature of West Virginia:

1 That §60-4-3a of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 4. LICENSES.

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

1 (a) *Sales of liquor.* — An operator of a distillery or a mini-distillery may offer liquor for retail
2 sale to customers from the distillery or the mini-distillery for consumption off premises only. Except
3 for free complimentary samples offered pursuant to section one, article six of this chapter,
4 customers are prohibited from consuming any liquor on the premises of the distillery or the mini-
5 distillery: *Provided,* That a licensed distillery or mini-distillery may offer complimentary samples
6 per this subsection of alcoholic liquors manufactured by that licensed distillery or mini-distillery for
7 consumption on the premises only on Sundays beginning at ten o'clock a.m. in any county in
8 which the same has been approved as provided for in section three-pp, article one, chapter seven
9 of this code.

10 (b) *Retail sales.* — Every licensed distillery or mini-distillery shall comply with the
11 provisions of sections nine, eleven, thirteen, sixteen, seventeen, eighteen, nineteen, twenty-two,
12 twenty-three, twenty-four, twenty-five and twenty-six, article three-a of this chapter and the
13 provisions of articles three and four of this chapter applicable to liquor retailers and distillers:
14 *Provided,* That a licensed distillery or mini-distillery may offer complimentary samples as provided
15 in subsection (a) of this section on Sundays beginning at one o'clock p.m. or at ten o'clock a.m.

16 in which the same has been approved as provided for in section three-pp, article one, chapter
17 seven of this code.

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

27 (d) *Payments to market zone retailers.* — Each distillery or mini-distillery shall submit to
28 the commissioner two percent of the gross sales price of each retail liquor sale for the value of all
29 sales at the distillery or the mini-distillery each month. This collection shall be distributed by the
30 commissioner, at least quarterly, to each market zone retailer located in the distillery or mini-
31 distillery's market zone, proportionate to each market zone retailer's annual gross prior years
32 pretax value sales. The maximum amount of market zone payments that a distillery or mini-
33 distillery shall be required to submit to the commissioner is \$15,000 per annum.

34 (e) *Limitations on licensees.* — No distillery or mini-distillery may sell more than three
35 thousand gallons of product at the distillery or mini-distillery location the initial two years of
36 licensure. The distillery or mini-distillery may increase sales at the distillery or mini-distillery
37 location by two thousand gallons following the initial twenty-four-month period of licensure and
38 may increase sales at the distillery or mini-distillery location each subsequent twenty-four-month
39 period by two thousand gallons, not to exceed ten thousand gallons a year of total sales at the
40 distillery or mini-distillery location. No licensed mini-distillery may produce more than fifty
41 thousand gallons per calendar year at the mini-distillery location. No more than one distillery or

- 42 mini-distillery license may be issued to a single person or entity and no person may hold both a
43 distillery and a mini-distillery license.

NOTE: The purpose of this bill is to authorize operators of a distillery or mini-distillery to offer for consumption of liquor on the premises on Sundays beginning at 1:00 p.m. or 10:00 a.m. if the county permits the sale of alcohol at that time.

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