

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Committee Substitute

for

Senate Bill 290

BY SENATORS WELD, STOLLINGS, TAKUBO AND RUCKER

[Originating in the Committee on Judiciary; reported

on March 16, 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 products produced at the
3 distillery or mini-distillery for retail sale to customers for consumption off the premises on
4 Sundays beginning at one o'clock p.m.; and providing that a distillery or mini-distillery
5 located on a farm shall be required to meet only such state and local building and fire
6 regulations as apply to structures on parcels of land used primarily for agricultural
7 purposes.

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
7 for 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 make retail sales of alcoholic liquors

15 produced at the distillery or mini-distillery for consumption off the premises on Sundays beginning
16 at one o'clock p.m.

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

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

33 (e) *Limitations on licensees.* — No distillery or mini-distillery may sell more than three
34 thousand gallons of product at the distillery or mini-distillery location the initial two years of
35 licensure. The distillery or mini-distillery may increase sales at the distillery or mini-distillery
36 location by two thousand gallons following the initial 24-month period of licensure and may
37 increase sales at the distillery or mini-distillery location each subsequent 24-month period by two
38 thousand gallons, not to exceed ten thousand gallons a year of total sales at the distillery or mini-
39 distillery location. No licensed mini-distillery may produce more than fifty thousand gallons per
40 calendar year at the mini-distillery location. No more than one distillery or mini-distillery license

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

43 (f) Distilleries or mini-distilleries located on farms. — A distillery or mini-distillery located
44 on a farm shall be required to meet only such state and local building and fire regulations as apply
45 to structures on parcels of land used primarily for agricultural purposes.

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