

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2979**

BY DELEGATES MOORE, BARRETT, SUMMERS, SHOTT,  
ESPINOSA, UPSON, MILLER, C., COWLES, KESSINGER,  
MILEY AND FLEISCHAUER

[Introduced March 13, 2017; Referred  
to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §60-10-1, §60-10-2, §60-10-3 and §60-10-4, all relating to the creation of a  
 3 resort license for the sale of alcoholic liquors and nonintoxicating beers throughout the  
 4 premises of a resort; setting forth legislative findings and purposes; defining terms;  
 5 providing for the establishment of a resort license; and providing rulemaking authority to  
 6 the West Virginia Alcohol Beverage Control Commissioner.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 article, designated §60-10-1, §60-10-2, §60-10-3 and §60-10-4, all to read as follows:

**ARTICLE 10. RESORT LICENSES.**

**§60-10-1. Legislative findings and purposes.**

1 The Legislature of West Virginia, having carefully considered the provisions of section 46  
 2 of article VI of the Constitution of this state and all of the matters giving rise to the enactment  
 3 thereof and having further considered the operations of a resort as defined in this article, hereby  
 4 determines and finds that such resorts are not saloons or other public places in which the sale  
 5 and consumption of intoxicating liquors are required to be prohibited by the provisions of said  
 6 section 46 of article VI of said Constitution; but, to the contrary, are private places in which such  
 7 sale and consumption of intoxicating liquors are constitutionally permitted and authorized.

**§60-10-2. Definitions.**

1 Unless the context in which it is used clearly requires a different meaning, as used in this  
 2 article:

3 (a) "Alcoholic liquor" has the same meaning as the term is defined in section five, article  
 4 one, chapter sixty of this code.

5 (b) "Commissioner" means the West Virginia Alcohol Beverage Control Commissioner.

6 (c) "Licensee" means the holder of a resort license granted under the provisions of this  
 7 article, and such license remains unexpired, unsuspended and unrevoked.

8 (d) "Nonintoxicating beer" has the same meaning as such term is defined in section five,  
9 article one, chapter sixty of this code.

10 (e) "Premises" means a building, structure, facility, recreation area, enclosure, or any part  
11 thereof, located on property within the contiguous boundaries of a resort. For purposes of this  
12 article, "premises" specifically includes any golf course, tennis courts, ski slopes or trails, riding  
13 stables, swimming facilities located within the contiguous boundaries of a resort.

14 (f) "Resort" means a destination establishment that consists of:

15 (1) At least thirty rooms for the overnight accommodation of transient guests;

16 (2) One of more restaurants or similar facilities on the premises, at least sixty percent of  
17 the gross income of which is derived from the sale of prepared meals or food; and

18 (3) One or more recreational facilities and services on the premises such as skiing, golf,  
19 tennis or boating for use by guests.

**§60-10-3. Resort license.**

1 (a) Notwithstanding any other provisions of this chapter to the contrary, any person who  
2 owns a resort and possesses the qualifications required by this chapter, and who now or hereafter  
3 meets the requirements of and complies with the provisions of this article, may apply for, and the  
4 commissioner may issue, a license to:

5 (1) Sell alcoholic liquors, other than in sealed packages, for consumption on the premises  
6 of the resort, to their guests in accordance with the provisions of this article; and

7 (2) Sell nonintoxicating beers, for consumption on the premises of the resort, to their  
8 guests in accordance with the provisions of this article.

9 (b) The licensees may keep and maintain on their premises a supply of those alcoholic  
10 liquors and nonintoxicating beers in such quantities as may be appropriate for the conduct of  
11 operations thereof.

12 (c) Notwithstanding any other provision of this code to the contrary, no licensee is  
13 prohibited from obtaining a license for the sale of nonintoxicating beer under the provisions of

14 article sixteen of chapter eleven of this code because such licensee sells alcoholic liquors, permits  
15 the consumption of alcoholic liquor on his or her premises, or is the holder of a federal tax stamp  
16 permitting the sale of such alcoholic liquor.

17 (d) A resort license issued pursuant to subsection (a) of this section shall be applicable to  
18 the entirety of the premises of the resort, and the commissioner may not require, nor charge a  
19 separate fee for, separate licenses for differing facilities or areas within the resort premises.

**§60-10-4. Rulemaking.**

1 (a) The commissioner is directed to propose legislative rules for approval by the  
2 Legislature in accordance with the provisions of article three, chapter twenty-nine-a of this code,  
3 governing the licensing, conduct, and operation of a resort license that may be necessary to carry  
4 out the purposes of this article.

5 (b) The commissioner, pursuant to his or her discretion, may promulgate, in accordance  
6 with the provisions of article three, chapter twenty-nine-a of this code, emergency rules governing  
7 the licensing, conduct and operation of a resort license.

NOTE: The purpose of this bill is to establish a resort license for the sale of alcoholic liquors and nonintoxicating beers throughout the premises of a resort.

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