

# WEST VIRGINIA LEGISLATURE

## 2018 REGULAR SESSION

Introduced

### Senate Bill 374

FISCAL  
NOTE

BY SENATORS TRUMP AND WELD

[Introduced January 25, 2018; Referred  
to the Committee on the Economic Development; and then  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §60-7-2 of the Code of West Virginia, 1931, as amended; to amend  
 2 said code by adding thereto a new section, designated §60-7-8a; and to amend and  
 3 reenact §61-8-27 of said code, all relating to creating a private fair and festival license;  
 4 definitions; license requirements; license fee; and permitting minors to attend the private  
 5 fair or festival under certain conditions.

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

**CHAPTER §60-7-2. STATE CONTROL OF ALCOHOLIC LIQUORS.**

**ARTICLE 7. LICENSES TO PRIVATE CLUBS.**

**§60-7-2. Definitions; power to lease building for establishment of private club.**

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

3 (a) "Applicant" means a private club applying for a license under the provisions of this  
 4 article.

5 (b) "Code" means the official code of West Virginia, 1931, as amended.

6 (c) "Commissioner" means the West Virginia Alcohol Beverage Control Commissioner.

7 (d) "Licensee" means the holder of a license to operate a private club granted under this  
 8 article, which license shall remain unexpired, unsuspended and unrevoked.

9 (e) "Private club" means any corporation or unincorporated association which either: (1)  
 10 Belongs to or is affiliated with a nationally recognized fraternal or veterans' organization which is  
 11 operated exclusively for the benefit of its members, which pays no part of its income to its  
 12 shareholders or individual members, which owns or leases a building or other premises to which  
 13 club are admitted only duly elected or approved dues-paying members in good standing of the  
 14 corporation or association and their quests while in the company of a member and to which club  
 15 the general public is not admitted, and which club maintains in the building or on the premises a  
 16 suitable kitchen and dining facility with related equipment for serving food to members and their

17 quests; or (2) is a nonprofit social club, which is operated exclusively for the benefit of its  
18 members, which pays no part of its income to its shareholders or individual members, which owns  
19 or leases a building or other premises to which club are admitted only duly elected or approved  
20 dues-paying members in good standing of the corporation or association and their quests while  
21 in the company of a member and to which club the general public is not admitted, and which club  
22 maintains in the building or on the premises a suitable kitchen and dining facility with related  
23 equipment for serving food to members and their quests; or (3) is organized and operated for  
24 legitimate purposes which has at least 100 duly elected or approved dues-paying members in  
25 good standing, which owns or leases a building or other premises, including any vessel licensed  
26 or approved by any federal agency to carry or accommodate passengers on navigable waters of  
27 this state, to which club are admitted only duly elected or approved dues-paying members in good  
28 standing of the corporation or association and their guests while in the company of a member and  
29 to which club the general public is not admitted, and which club maintains in the building or on  
30 the premises a suitable kitchen and dining facility with related equipment and employs a sufficient  
31 number of persons for serving meals to members and their guests; or (4) is organized for  
32 legitimate purposes and owns or leases a building or other delimited premises in any state, county  
33 or municipal park or at any airport, in which building or premises a club has been established, to  
34 which club are admitted only duly elected and approved dues-paying members in good standing  
35 and their quests while in the company of a member and to which club the general public is not  
36 admitted, and which maintains in connection with the club a suitable kitchen and dining facility  
37 and related equipment and employs a sufficient number of persons for serving meals in the club  
38 to the members and their quests.

39 (f) "Private fair and festival" means an applicant for private club or a licensed private club  
40 meeting the requirements of §60-7-8a of this code for a temporary event, and the criteria set forth  
41 in this subsection which:

42 (1) Has at least 100 members;

43 (2) Has been sponsored, endorsed or approved, in writing, by the governing body (or its  
44 duly elected or appointed officers) of either the municipality or of the county wherein the festival,  
45 fair, or other event is to be conducted;

46 (3) Shall prepare, provide, or engage a food caterer to provide adequate freshly prepared  
47 food or meals to serve its stated members and guests who will be attending the temporary festival,  
48 fair or other event, and further shall provide any documentation or agreements of such to the  
49 Commissioner prior to approval;

50 (4) Shall not use third party entities or individuals to purchase, sell, furnish, or serve  
51 alcoholic liquors (liquor and wine), nonintoxicating beer, or nonintoxicating craft beer;

52 (5) Shall provide adequate restroom facilities, whether permanent or portable, to serve the  
53 stated members and guests who will be attending the festival, fair, or other event;

54 (6) Shall provide a floorplan for the proposed premises with a defined and bounded area  
55 to safely account for the ingress and egress of stated members and guests who will be attending  
56 the festival, fair, or other event; and

57 (7) Utilizes an age verification system approved by the commissioner.

58 (f) (g) "Private resort hotel" means an applicant for a private club or licensed private club  
59 licensee meeting the criteria set forth in this subsection which:

60 (1) Has at least 5,000 members;

61 (2) Offers short-term, daily-rate accommodations or lodging for members and their guests  
62 amounting to at least 50 separate bedrooms;

63 (3) Operates a restaurant and full kitchen with ovens, six-burner ranges, walk-in freezers,  
64 and other kitchen utensils and apparatus as determined by the commissioner on the licensed  
65 premises and serves freshly prepared food at least 25 hours per week;

66 (4) Maintains, at any one time, \$5,000 of fresh food inventory capable of being prepared  
67 in the private resort hotel's full kitchen, and in calculating the food inventory the commissioner  
68 may not include microwavable, frozen, or canned foods;

69 (5) Owns or leases, controls, operates, and uses acreage amounting to at least 10  
70 contiguous acres of bounded or fenced real property which would be listed on the licensees'  
71 floorplan and would be used for destination, resort and large contracted for group-type events  
72 such as weddings, reunions, conferences, meetings, and sporting or recreational events;

73 (6) Lists the entire property from subdivision (5) of this subsection and all adjoining  
74 buildings and structures on the private resort hotel's floorplan which would comprise the licensed  
75 premises, which would be authorized for the lawful sales, service and consumption of alcoholic  
76 liquors throughout the licensed premises whether these activities were conducted in a building or  
77 structure or outdoors while on the private resort hotel's licensed premises and as noted on the  
78 private resort hotel's floorplan;

79 (7) Has an identified person or persons or entity that has right, title and ownership or lease  
80 interest in the real property buildings and structures located on the proposed licensed premises;  
81 and

82 (8) Utilizes an age verification system approved by the commissioner.

83 ~~(g)~~ (h) "Private golf club" means an applicant for a private club or licensed private club  
84 licensee meeting the criteria set forth in this subsection which:

85 (1) Has at least 1,000 members;

86 (2) Maintains at least one 18-hole golf course with separate and distinct golf playing holes,  
87 not reusing 9 golf playing holes to comprise the 18 golf playing holes, a clubhouse, and offers golf  
88 carts, whether electric or gasoline;

89 (3) Operates a restaurant and full kitchen with ovens, as determined by the commissioner,  
90 on the licensed premises and serves freshly prepared food at least 15 hours per week;

91 (4) Owns or leases, controls, operates, and uses acreage amounting to at least 80  
92 contiguous acres of bounded or fenced real property which would be listed on the private golf  
93 club's floorplan and could be used for golfing events and large contracted for group-type events  
94 such as weddings, reunions, conferences, meetings, and sporting or recreational events;

95 (5) Lists the entire property from subdivision (4) of this subsection and all adjoining  
 96 buildings and structures on the private golf club's floorplan which would comprise the licensed  
 97 premises, which would be authorized for the lawful sales, service and consumption of alcoholic  
 98 liquors throughout the licensed premises whether these activities were conducted, in a building  
 99 or structure or outdoors while on the private golf club's licensed premises and as noted on the  
 100 private golf club's floorplan;

101 (6) Has an identified person or persons or entity that has right, title, and ownership interest  
 102 in the real property buildings and structures located on the proposed licensed premises; and

103 (7) Utilizes an age verification system approved by the commissioner.

104 The Department of Natural Resources, the authority governing any county or municipal  
 105 park, or any county commission, municipality, other governmental entity, public corporation, or  
 106 public authority operating any park or airport may lease as lessor a building or portion thereof or  
 107 other limited premises in any such park or airport to any corporation or unincorporated association  
 108 for the establishment of a private club pursuant to this article.

**§60-7-8a. Special license for a private fair and festival; licensee fee and application;  
 license fee; license subject to provisions of article; exception.**

1 The commissioner may issue a special one-day license to be designated a Class S2  
 2 license for the retail sale of alcoholic liquors (liquor and wine), nonintoxicating beer, and  
 3 nonintoxicating craft beer, for on-premises consumption at a festival, fair, or other event, provided  
 4 that, the festival, fair, or other event is sponsored, endorsed, or approved by the governing body  
 5 (or its duly elected or appointed officers) of either the municipality or of the county wherein the  
 6 festival, fair, or other event is to be conducted. Such special license shall be temporary and issued  
 7 for a term no longer than 10 consecutive days and the fee therefor shall be \$750. This fee shall  
 8 be per each 10-day event application and shall not be prorated or refunded. No more than 10  
 9 licenses shall be issued to any single licensee during any calendar year. The license application  
 10 shall contain such information as the commissioner may reasonably require and shall be

11 submitted to the commissioner at least 15 days prior to the event. Nonintoxicating beer or  
12 nonintoxicating craft beer sold, furnished, or served for this temporary special license shall be  
13 purchased from a licensed distributor or resident brewer, acting in a limited capacity as a  
14 distributor, in accordance with §11-16-1 et seq. of this code that services the territory where the  
15 festival, fair, or other event is occurring. Wine sold, furnished, or served for the temporary special  
16 license shall be purchased from a licensed distributor, winery, or farm winery in accordance with  
17 §60-8-1 et seq. of this code. Liquor sold, furnished, or served for the temporary special license  
18 shall be purchased from a licensed retail liquor outlet, in accordance with §60-3A-1 et seq. of this  
19 code, located in the market zone or contiguous market zone where the festival, fair, or other event  
20 is occurring, as determined by the commissioner. Licensed beer distributors representatives,  
21 brewer representatives, resident brewer representatives, wine distributor representatives, winery  
22 and farm winery representatives, and liquor representatives may attend the festival, fair, or other  
23 event and discuss their respective products but shall not engage in the purchasing, selling,  
24 furnishing, or serving of the nonintoxicating beer, nonintoxicating craft beer, wine, or liquor. A  
25 licensee licensed by this section may utilize bona fide employees or volunteers. Note, third party  
26 entities or individuals who are not listed on the Class S2 license shall not perform any duties or  
27 functions of the licensee.

28 A license issued under the provisions of this section and the licensee holding the license  
29 are subject to all other provisions of this article and the rules and orders of the commissioner  
30 relating to the special license: *Provided*, That the commissioner may by rule or order allow certain  
31 waivers or exceptions with respect to those provisions, rules or orders as the circumstances of  
32 each event requires, including, without limitation, the right to revoke or suspend immediately any  
33 license issued pursuant to this section prior to any notice or hearing notwithstanding the  
34 provisions of §60-7-13a of this code: *Provided*, however, That under no circumstances may the  
35 provisions of §60-7-12 of this code be waived or an exception granted with respect thereto.

## CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

### ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

#### §61-8-27. Unlawful admission of children to dance house, etc.; penalty.

36 Any proprietor or any person in charge of a dance house, concert saloon, theater,  
 37 museum, or similar place of amusement, or other place, where wines or spirituous or malt liquors  
 38 are sold or given away, or any place of entertainment injurious to health or morals who admits or  
 39 permits to remain therein any minor under the age of 18 years, unless accompanied by his or her  
 40 parent or guardian, is guilty of a misdemeanor and, on conviction thereof, shall be punished by a  
 41 fine not exceeding \$200: *Provided*, That there is exemption from this prohibition for: (a) a private  
 42 resort hotel and private golf club licensed pursuant to §60-7-1 *et seq.* of this code and in  
 43 compliance with ~~subdivision (8), subsection (f), section two of said article~~ §60-7-2(g)(8) and §60-  
 44 7-2(h)(7) of this code; ~~or~~ (b) a private club with more than 1,000 members that is in good standing  
 45 with the Alcohol Beverage Control Commissioner, that has been approved by the Alcohol  
 46 Beverage Control Commissioner and which has designated certain seating areas on its licensed  
 47 premises as nonalcoholic liquor and nonintoxicating beer areas, as noted in the licensee's  
 48 floorplan; or (c) a private fair and festival that is in compliance with §60-7-2(f)(7) by utilizing a  
 49 mandatory carding or identification program whereby all members or guests being served or sold  
 50 alcoholic liquors or nonintoxicating beer are asked and must provide their proper identification to  
 51 verify their identity and further that they are of legal drinking age, 21 years of age or older, prior  
 52 to each sale or service of alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer.

NOTE: The purpose of this bill is to create a new a private fair and festival license to permit various festivals, fairs, weddings, and other events to obtain a license to purchase, sell, and serve liquor, wine, and beer at the temporary event. The bill also provides for mandatory carding of members and guest prior to purchasing liquor, wine, or beer at these events due to the temporary nature of the events.

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