

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 3103**

BY DELEGATES ESPINOSA AND HOUSEHOLDER

[Originating in the Committee on Government

Organization, February 22, 2019.]



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 purchase and  
3 consumption liquor on the premises if purchased and consumed at a licensed Class A  
4 private club operating on the premises of the distillery or mini-distillery; and allowing  
5 distilleries and mini-distilleries to sell and serve alcohol beginning at 10:00 a.m. on  
6 Sundays.

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

**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, unless  
3 a licensed Class A private club operating pursuant to §60-7-1 et seq. of this code is operating on  
4 the premises, in which case the licensed Class A private club may offer liquor manufactured by  
5 the distillery or mini-distillery for retail sale and consumption on premises. Except for free  
6 complimentary samples offered pursuant to §60-6-1 of this code, and in on-premise Class A  
7 private club operations, customers are prohibited from consuming any liquor on the premises of  
8 the distillery or the mini-distillery: *Provided,* That a licensed distillery or mini-distillery may offer  
9 complimentary samples per this subsection of alcoholic liquors manufactured by that licensed  
10 distillery or mini-distillery for consumption on the premises only on Sundays beginning at 10:00  
11 a.m. in any county in which the same has been approved as provided for in §7-1-3pp of this code.

12 (b) *Retail sales.* — Every licensed distillery or mini-distillery shall comply with the  
13 provisions of §60-3A-9, §60-3A-11, §60-3A-13, §60-3A-16, §60-3A-17, §60-3A-18, §60-3A-19,  
14 §60-3A-22, §60-3A-23, §60-3A-24, §60-3A-25, and §60-3A-26 of this code and the provisions of  
15 §60-3-1 et seq. and §60-4-1 et seq. of this code applicable to liquor retailers and distillers:  
16 *Provided,* That a licensed distillery or mini-distillery may offer samples provided in §60-4-3a(a) of

17 this code and make retail sales of alcoholic liquors manufactured by that licensed distillery or mini-  
18 distillery for consumption off the premises on Sundays beginning at 10:00 a.m.

19 (c) *Payment of taxes and fees.* — The distillery or mini-distillery shall pay all taxes and  
20 fees required of licensed retailers and meet applicable licensing provisions as required by this  
21 chapter and by rule of the commissioner, except for payments of the wholesale markup  
22 percentage and the handling fee provided by rule of the commissioner: *Provided*, That all liquor  
23 for sale to customers from the distillery or the mini-distillery for off-premises consumption shall be  
24 subject of a five percent wholesale markup fee and an 80 cents per case bailment fee to be paid  
25 to the commissioner: *Provided, however*, That no liquor sold by the distillery or mini-distillery shall  
26 may be priced less than the price set by the commissioner pursuant to §60-3A-17 of this code.

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 3,000  
35 gallons of product at the distillery or mini-distillery location the initial two years of licensure. The  
36 distillery or mini-distillery may increase sales at the distillery or mini-distillery location by 2,000  
37 gallons following the initial 24-month period of licensure and may increase sales at the distillery  
38 or mini-distillery location each subsequent 24-month period by 2,000 gallons, not to exceed  
39 10,000 gallons a year of total sales at the distillery or mini-distillery location. No licensed mini-  
40 distillery may produce more than 50,000 gallons per calendar year at the mini-distillery location.  
41 No more than one distillery or mini-distillery license may be issued to a single person or entity and  
42 no person may hold both a distillery and a mini-distillery license.

NOTE: The purpose of this bill is to allow a distillery or mini-distillery to offer liquor for retail sale and consumption on or off the premises if a licensed Class A private club is operating on the premises.

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