

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2392**

BY DELEGATES HARTMAN AND CAPUTO

[Introduced January 14, 2019; Referred  
to the Committee on Government Organization.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §11-16-11b; and to amend said code by adding thereto a new section,  
 3 designated §60-6-27, all relating to allowing the Alcohol Beverage Control Commissioner  
 4 to issue special one-day licenses for the retail sale of nonintoxicating beer and alcoholic  
 5 liquors to a duly organized nonprofit corporation, limited liability entity or an association  
 6 having received federal tax-exempt status, when raising money for artistic, athletic,  
 7 charitable, educational or religious purposes.

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

## CHAPTER 11. TAXATION.

### ARTICLE 16. NONINTOXICATING BEER.

#### **§11-16-11b. Special license for one-day charitable events; license fee and application; license subject to provisions of article; exceptions.**

1 The commissioner may issue special one day licenses to be designated Class S1 licenses  
 2 for the retail sale of nonintoxicating beer to a duly organized nonprofit corporation, limited liability  
 3 entity or an association having received federal tax-exempt status, allowing the sale and serving  
 4 of nonintoxicating beer when raising money for artistic, athletic, charitable, educational or religious  
 5 purposes. One special license may be issued for a period no longer than one day. The license  
 6 application shall contain information the commissioner requires and shall be submitted to the  
 7 commissioner at least 15 days prior to the event. Nonintoxicating beer used during the event may  
 8 be donated by or purchased from a licensed retailer, distributor or resident brewer. The  
 9 commissioner may not charge a fee for a license under this section.

10 A license issued under the provisions of this section and the licensee holding the license  
 11 is subject to all other provisions of this article and the rules and orders of the commissioner relating  
 12 to the special license: *Provided*, That the commissioner may, by rule or order, allow waivers or  
 13 exceptions with respect to those provisions, rules or orders as the circumstances of each event  
 14 require, including, without limitation, the right to revoke or suspend any license issued pursuant

15 to this section prior to any notice or hearing notwithstanding the provisions of §11-16-24 of this  
16 code: *Provided, however,* That under no circumstances may §11-16-18(a)(1), §11-16-18(a)(2) or  
17 §11-16-18(a)(3) of this code be waived or an exception granted with respect thereto.

## **CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.**

### **ARTICLE 6. MISCELLANEOUS PROVISIONS.**

#### **§60-6-27. Special license for one-day charitable events.**

1 (a) The commissioner may issue special one day licenses for the use of alcoholic liquor  
2 by a duly organized nonprofit corporation, limited liability entity or an association having received  
3 federal tax-exempt status, allowing the sale and serving of alcoholic liquor when raising money  
4 for artistic, athletic, charitable, educational or religious purposes. One special license may be  
5 issued for a period no longer than one day. The license application shall contain:

6 (1) Proof that the licensee will have sufficient procedures in place that will prevent:

7 (A) The procurement of alcoholic liquors for or to, or permit the consumption of alcoholic  
8 liquors on the licensee's premises, by any person less than 21 years of age; and

9 (B) The procurement of any alcoholic liquors, for or to any person known to be deemed  
10 legally incompetent, or for or to any person who is physically incapacitated due to consumption  
11 of nonintoxicating beer, wine or alcoholic liquor or the use of drugs; and

12 (2) Other information the commissioner requires.

13 (b) The application shall be submitted to the commissioner at least 15 days prior to the  
14 event. Alcoholic liquor used during the event may be donated by or purchased from a licensed  
15 retailer, distributor or a private club licensed under §60-7-1 *et seq.* of this code.

16 (c) A license issued under the provisions of this section and the licensee holding the  
17 license is subject to all other provisions of this article and the rules and orders of the commissioner  
18 relating to the special license: *Provided,* That the commissioner may, by rule or order, allow  
19 waivers or exceptions with respect to those provisions, rules or orders as the circumstances of  
20 each event require, including, without limitation, the right to revoke or suspend any license issued

- 21 pursuant to this section prior to any notice or hearing.
- 22 (d) The commissioner may not charge a fee for a license under this section.
- 23 (e) Pursuant to section 46, article VI of the West Virginia Constitution the license may not
- 24 authorize the sale of alcoholic liquors or consumption of alcoholic liquors in a public place.

NOTE: The purpose of this bill is to allow the Alcohol Beverage Control Commissioner to issue special one-day licenses for the retail sale of nonintoxicating beer and alcoholic liquors to a duly organized nonprofit corporation, limited liability entity or an association having received federal tax-exempt status, when raising money for artistic, athletic, charitable, educational or religious 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.