

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4524

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BARRETT, PHILLIPS, STORCH, FLUHARTY AND STEELE

[Introduced January 24, 2020; Referred to the
Committee on the Judiciary.]

1 A BILL to amend and reenact §60-5-1, §60-5-2, §60-5-3, §60-5-4, §60-5-5, §60-5-6 and §60-5-8
2 of the Code of West Virginia, 1931, as amended, all relating to making the entire state
3 “wet” or permitting the sale of alcoholic liquors for off-premises consumption; providing a
4 county option to vote to go “dry” or prohibit the sale of alcoholic liquors for off-premises
5 consumption; and permitting an exception.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. LOCAL OPTION ELECTIONS.

§60-5-1. Election in county, magisterial district or municipality.

1 Effective July 1, 2020 the entire state shall be considered “wet” or permitting the sale of
2 alcoholic liquors for off-premises consumption. A county is permitted, as set forth in this article, to
3 vote to go “dry” or not permitting the sale of alcoholic liquors for off-premises consumption:
4 Provided, That if that county votes to go “dry” the election does not affect any magisterial district
5 or municipality that has voted on or before January 1, 2020 to be “wet.” A county magisterial
6 district or any municipality may, in an election held especially for the purpose, determine whether
7 the sale of alcoholic liquors for beverage purposes shall be permitted off-premises consumption
8 be prohibited within that county. magisterial district or municipality

9 A local option election shall may not be held within 60 days of a general or municipal
10 election.

§60-5-2. Election called on petition of five percent of qualified voters.

1 The county commission ~~or the governing body of the municipality, as the case may be~~
2 shall call a special “local option election” upon the filing of a petition signed by not less than five
3 percent of the qualified voters within the county. ~~a magisterial district or municipality~~

§60-5-3. Form of petition.

1 The petition shall be in the following form:
2 Petition for Local Option Election

3 We, the undersigned legally qualified voters, resident within the county (~~magisterial~~
4 ~~district~~) (~~municipality~~) of _____, do hereby petition that a special election be held
5 within the county (~~city, town~~) of _____ on the _____ day of
6 _____, 19____, upon the following question:

7 Shall the sale of alcoholic beverages under the West Virginia Alcohol Beverage Control
8 Commissioner be ~~permitted~~ prohibited in _____?

9 Name Address Date

10 (Post office or street and number)

§60-5-4. Notice of election; when held; election officers.

1 The county ~~court or governing body of the municipality~~ commission shall give notice of the
2 special "local option election" by publication thereof as a Class II-O legal advertisement in
3 compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for ~~such~~
4 the publication shall be the area in which the election is to be held. ~~Such~~ is the county. The notice
5 shall be ~~se~~ published within 14 consecutive days next preceding the election. The election shall
6 be held not more than 90 nor less than 60 days from the filing of the petition. The regular election
7 officers of the county ~~or municipal corporation~~ shall open the polls and conduct the election in the
8 same manner provided for general elections.

§60-5-5. Form of ballot.

1 On the ballot shall be printed the following:

2 Shall the sale of alcoholic ~~beverages~~ liquors for off-premises consumption under the West
3 Virginia ~~liquor control commission~~ Alcohol Beverage Control Commissioner be
4 prohibited in County?

5 Yes.

6 No.

7 (Place a cross mark in the square opposite your choice.)

§60-5-6. How election conducted and results certified.

1 The ballots shall be counted, returns made and canvassed as in general elections, and
2 the results certified by the commissioners of election to the county ~~court~~ commission of the county.
3 ~~or the governing body of the municipality, as the case may be.~~ The county ~~court or governing~~
4 ~~body~~ commission shall without delay certify the result of the election to the ~~commission~~ Alcohol
5 Beverage Control Commissioner.

§60-5-8. When another election may be held.

1 When a “local option election” has been held in a county ~~a magisterial district or~~
2 ~~municipality~~ another such election ~~shall~~ may not be held for a period of two years. ~~except that an~~
3 ~~election may be held within a municipality without regard to an election held in or the time limit~~
4 ~~applicable to the county within which the municipality, or a part thereof, is located~~

NOTE: The purpose of this bill is to make the entire state “wet” or permit the sale of alcoholic liquors (liquor, wine and beer over 15 percent abv) for off-premises consumption throughout the entire state. The bill does provide a county option if a county would want to vote to go dry or prohibit the sale of alcoholic liquors for off-premises consumption, but also permits an exception. There are currently 13 “dry” areas in the state, some as big as county, town or even tax districts.

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