

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**ENROLLED**

## **House Bill 4524**

BY DELEGATES WESTFALL, HARTMAN, SPONAUGLE,  
BARRETT, PHILLIPS, STORCH, FLUHARTY AND STEELE

[Passed March 7, 2020; in effect ninety days from  
passage.]



1 AN ACT to amend and reenact §60-5-1, §60-5-2, §60-5-3, §60-5-4, §60-5-5, §60-5-6, §60-5-7,  
2 and §60-5-8, of the Code of West Virginia, as amended and to further amend said code  
3 by adding thereto a new section, designated §60-5-9, all relating to the off-premises sale  
4 of alcoholic liquors generally; allowing the off-premises sale of alcoholic liquors in every  
5 county and municipality in the state; creating procedures for counties and municipalities  
6 which prohibited off-premises sale of alcoholic liquors prior to January 1, 2020 to hold a  
7 local option election to retain the prohibition; authorizing county commissions and  
8 governing bodies of municipalities to retain prohibition by a vote to do so without an  
9 election; requiring a vote to continue the prohibition or to order an election to occur on or  
10 before July 1, 2020; allowing counties and municipalities which prohibit the off premises  
11 sale of alcoholic liquors to hold a local option election to reconsider the action; allowing  
12 county commissions and governing bodies of municipalities to vote to maintain the  
13 prohibition as an alternative to holding a local option election, requiring notice to  
14 commissioner of election results of the vote by July 1, 2020; and updating code language.

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

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

### **ARTICLE 5. LOCAL OPTION ELECTIONS.**

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

1 A county or any municipality may in an election held especially for the purpose, determine  
2 whether the sale of alcoholic liquors for beverage purposes shall be permitted within that county  
3 or municipality.

4 A local option election shall not be held within 60 days of a general or municipal 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, shall call a special local  
2 option election upon the filing of a petition signed by not less than five percent of the qualified  
3 voters within the county 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 (municipality)  
4 of \_\_\_\_\_, do hereby petition that a special election be held within the county (city,  
5 town) of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_,  
6 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 commission or governing body of the municipality shall give notice of the  
2 special local option election by publication thereof as a Class II-0 legal advertisement in  
3 compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such  
4 publication shall be the area in which the election is to be held. Such notice shall be so published  
5 within 14 consecutive days next preceding the election. The election shall be held not more than  
6 90 nor less than 60 days from the filing of the petition. The regular election officers of the county  
7 or municipal corporation shall open the polls and conduct the election in the same manner  
8 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 liquors for off-premises consumption under the West Virginia  
3 Alcohol Beverage Control Commissioner be permitted in \_\_\_\_\_?

4  Yes.

5  No.

6 (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 commission of the county, or  
3 the governing body of the municipality. The county commission or governing body shall without  
4 delay certify the result of the election to the commissioner.

**§60-5-7. Discontinuance of state stores and agencies in local option territory.**

1 Within 30 days after a local option election in which a majority has voted No, the  
2 commissioner shall order the closing of all stores selling alcoholic liquor for off-premises  
3 consumption within the county, or municipality.

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

1 When a local option election has been held in a county, or municipality, another such  
2 election may not be held for a period of two years.

**§60-5-9. Allowing state-wide off premises of alcoholic liquors; exceptions; procedures.**

1 (a) Effective July 1, 2020, the sale of alcoholic liquors for off-premises consumption is  
2 authorized in all counties and municipalities of the state.

3 (b) Notwithstanding the provisions of subsection (a) of this section, a county or  
4 municipality which prior to January 1, 2020, prohibited the sale of alcoholic liquors for off-premises  
5 consumption may, pursuant to this subsection, hold a local option election to maintain the  
6 prohibition against the sale of alcoholic liquors for off-premises consumption without the petition  
7 required by the provisions of §60-5-2 of this code, if it enters an order to hold a local option  
8 election on the issue on or before July 1, 2020, in which event the election shall be held concurrent  
9 with the 2020 general election. The county commission or municipality may require the state to  
10 reimburse it for the actual cost of conducting the local option election authorized by this  
11 subsection: *Provided*, That, as an alternative to the local option election authorized by this  
12 subsection, the county commission or governing body of a municipality which prior to January 1,

13 2020, had prohibited the sale of alcoholic liquors for off-premises consumption may vote to  
14 maintain the prohibition and provide certification of the result of the vote to the commissioner on  
15 or before July 1, 2020.

16 (c) A county or municipality which prohibits the sale of alcoholic liquors for off-premises  
17 consumption pursuant to subsection (b) of this section may later reconsider its action using the  
18 procedures set forth in §60-5-1 *et seq.* of this code.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....  
*Chairman, House Committee*

.....  
*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

.....  
*Clerk of the House of Delegates*

.....  
*Clerk of the Senate*

.....  
*Speaker of the House of Delegates*

.....  
*President of the Senate*

\_\_\_\_\_

The within ..... this the.....  
day of ....., 2020.

.....  
*Governor*