

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

Introduced

### Senate Bill 638

FISCAL  
NOTE

BY SENATOR TRUMP

[Introduced January 28, 2020; referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §60-7-2, §60-7-6, §60-7-8a, and §60-7-12 of the Code of West  
 2 Virginia, 1931, as amended; and to amend and reenact §61-8-27 of said code, all relating  
 3 to creating new private club licenses and requirements for a private multivendor fair and  
 4 festival license, private night club license, private tennis club license, and a private  
 5 wedding venue license; setting private club license requirements; setting private club  
 6 license fees; setting private club hours of operations; and permitting certain exceptions to  
 7 the accompanied minor requirements.

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

**CHAPTER 60. 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 guests 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 guests; ~~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 guests 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 guests; ~~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,  
33 county, or municipal park or at any airport, in which building or premises a club has been  
34 established, to which club are admitted only duly elected and approved dues-paying members in  
35 good standing and their guests while in the company of a member and to which club the general  
36 public is not admitted, and which maintains in connection with the club a suitable kitchen and  
37 dining facility and related equipment and employs a sufficient number of persons for serving meals  
38 in the club to the members and their guests.

39 (f) "Private fair and festival" means an applicant for a 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 indoor  
55 and/or outdoor area to safely account for the ingress and egress of stated members and guests  
56 who will be attending the festival, fair, or other event, and such floorplan which would comprise  
57 the licensed premises, which would be authorized for the lawful sales, service, and consumption  
58 of alcoholic liquors throughout the licensed premises whether these activities were conducted in  
59 a building or structure, or outdoors while on the licensed premises and as noted on the floorplan;

60 (7) Shall meet and be subject to all other private club requirements; and

61 ~~(7)~~ (8) Utilizes an age verification system approved by the commissioner.

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

64 (1) Has at least 2,000 members;

65 (2) Offers short-term, daily rate accommodations or lodging for members and their guests  
66 amounting to at least 30 separate bedrooms, and also offers a conference center for meetings;

67 (3) Operates a restaurant and full kitchen with ovens, four-burner ranges, walk-in freezers,  
68 and other kitchen utensils and apparatus as determined by the commissioner on the licensed  
69 premises and serves freshly prepared food at least 20 hours per week;

70 (4) Maintains, at any one time, \$2,500 of fresh food inventory capable of being prepared  
71 in the private hotel's full kitchen, and in calculating the food inventory the commissioner may not  
72 include microwavable, frozen, or canned foods;

73 (5) Owns or leases, controls, operates, and uses acreage amounting to more than one  
74 acre but fewer than three acres, which are contiguous acres of bounded or fenced real property  
75 which would be listed on the licensee's floorplan and would be used for hotel and conferences  
76 and large contracted for group-type events such as weddings, reunions, conferences, meetings,  
77 and sporting or recreational events;

78 (6) Lists in the application referenced in subdivision (5) of this subsection the entire  
79 property and all adjoining buildings and structures on the private hotel's floorplan which would  
80 comprise the licensed premises, which would be authorized for the lawful sales, service, and  
81 consumption of alcoholic liquors throughout the licensed premises whether these activities were  
82 conducted in a building or structure or outdoors while on the private hotel's licensed premises and  
83 as noted on the private hotel's floorplan;

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

86 ~~(8) Shall meet and be subject to all other private club requirements; and~~

87 ~~(8) (9) Utilizes an age verification system approved by the commissioner.~~

88 (h) "Private multi-vendor fair and festival" means an applicant for a private club or a  
89 licensed private club meeting the requirements of §60-7-8a of this code for a temporary one-day  
90 event where multiple vendors shall share liability and apply for a temporary license with each  
91 vendor being permitted to temporarily purchase, sell, furnish, or serve alcoholic liquors (liquor and  
92 wine), nonintoxicating beer, or nonintoxicating craft beer, and the criteria set forth in this

93 subsection which:

94 (1) Has at least two separate and unrelated vendors applying for the license and certifying  
95 that at least 200 members will be in attendance;

96 (2) Has each vendor provide documentation that the one day event and each vendor have  
97 been sponsored, endorsed, or approved, in writing, by the governing body (or its duly elected or  
98 appointed officers) of either the municipality or of the county wherein the festival, fair, or other  
99 event is to be conducted;

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

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

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

108 (6) Shall provide an agreement between the vendors and executed by all vendors and/or  
109 food caterers stating that each vendor is jointly and severally liable for any improper acts or  
110 conduct committed during the event;

111 (7) Shall provide a security plan indicating all vendor points of service, entrances, and  
112 exits in order to verify members, patrons and guests ages, whether a member, patron or guest is  
113 intoxicated and to provide for the public health and safety of members, patrons, and guests;

114 (8) Shall provide a floorplan for the proposed premises with one defined and bounded  
115 indoor and/or outdoor area to safely account for the ingress and egress of stated members,  
116 patrons, and guests who will be attending the festival, fair, or other event, and such floorplan  
117 which would comprise the licensed premises, which would be authorized for the lawful sales,  
118 service, and consumption of alcoholic liquors throughout the licensed premises whether these

119 activities were conducted in a building or structure, or outdoors while on the licensed premises  
120 and as noted on the floorplan;

121 (9) Shall meet and be subject to all other private club requirements; and

122 (10) Utilizes an age verification system approved by the commissioner.

123 (i) "Private night club" means an applicant for a private club or a licensed private club that  
124 operates less than seven days a week and primarily does not open for business until the evening  
125 or after 9:00 p.m. on weeknights and/or weekends and must close on or before 4:00 a.m., with all  
126 music, entertainment, dancing or other related activities ceasing at 3:00 a.m., all liquor, wine, and  
127 nonintoxicating beer sales ceasing at 3:30 a.m., and the private night club closed and all staff,  
128 employees, patrons, and persons exited from the licensed premises by 4:00 a.m., and further  
129 where live or recorded music and entertainment, dancing, or other events are scheduled or  
130 advertised at the proposed premises or licensed premises, and meeting the criteria set forth in  
131 this subsection which:

132 (1) Has at least 100 members;

133 (2) Shall not use third-party entities or individuals to purchase, sell, furnish, or serve  
134 alcoholic liquors (liquor and wine), nonintoxicating beer, or nonintoxicating craft beer;

135 (3) Shall list all managers and persons involved in the day to day management of the  
136 proposed premises or the licensed premises on its license application;

137 (4) Shall obtain liquor liability insurance at minimum coverage of \$1 million per occurrence;

138 (5) Shall provide a security plan and employ security personnel to protect the health and  
139 safety of the members, patrons, guests, and the public;

140 (6) Shall provide a detailed floorplan for the proposed premises;

141 (7) Shall meet and be subject to all other private club requirements; and

142 (8) Shall provide and utilize an age verification system approved by the commissioner.

143 (j) "Private resort hotel" means an applicant for a private club or licensed private club  
144 licensee meeting the criteria set forth in this subsection which:

- 145 (1) Has at least 5,000 members;
- 146 (2) Offers short-term, daily rate accommodations or lodging for members and their guests  
147 amounting to at least 50 separate bedrooms;
- 148 (3) Operates a restaurant and full kitchen with ovens, six-burner ranges, walk-in freezers,  
149 and other kitchen utensils and apparatus as determined by the commissioner on the licensed  
150 premises and serves freshly prepared food at least 25 hours per week;
- 151 (4) Maintains, at any one time, \$5,000 of fresh food inventory capable of being prepared  
152 in the private resort hotel's full kitchen, and in calculating the food inventory the commissioner  
153 may not include microwavable, frozen, or canned foods;
- 154 (5) Owns or leases, controls, operates, and uses acreage amounting to at least 10  
155 contiguous acres of bounded or fenced real property which would be listed on the licensee's  
156 floorplan, including indoor and/or outdoor areas, and would be used for destination, resort, and  
157 large contracted for group-type events such as weddings, reunions, conferences, meetings, and  
158 sporting or recreational events;
- 159 (6) Lists the entire property from subdivision (5) of this subsection and all adjoining  
160 buildings and structures on the private resort hotel's floorplan which would comprise the licensed  
161 premises, which would be authorized for the lawful sales, service, and consumption of alcoholic  
162 liquors throughout the licensed premises whether these activities were conducted in a building or  
163 structure or outdoors while on the private resort hotel's licensed premises and as noted on the  
164 private resort hotel's floorplan;
- 165 (7) Has an identified person or persons or entity that has right, title, and ownership or lease  
166 interest in the real property buildings and structures located on the proposed licensed premises;
- 167 (8) Utilizes an age verification system approved by the commissioner;
- 168 (9) Shall meet and be subject to all other private club requirements; and
- 169 ~~(9)~~(10) May have a separately licensed resident brewer with a brewpub license inner-  
170 connected via a walkway, doorway, or entryway, all as determined and approved by the



171 commissioner, for limited access during permitted hours of operation for tours and complimentary  
172 samples at the resident brewery.

173 ~~(j)~~(k) "Private golf club" means an applicant for a private club or licensed private club  
174 licensee meeting the criteria set forth in this subsection which:

175 (1) Has at least 100 members;

176 (2) Maintains at least one 18-hole golf course with separate and distinct golf playing holes,  
177 not reusing nine golf playing holes to comprise the 18 golf playing holes, and a clubhouse;

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

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

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

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

192 (7) Shall meet and be subject to all other private club requirements; and

193 ~~(7)~~ (8) Utilizes an age verification system approved by the commissioner.

194 ~~(j)~~ (l) "Private nine-hole golf course" means an applicant for a private club or licensed  
195 private club licensee meeting the criteria set forth in this subsection which:

196 (1) Has at least 50 members;

197 (2) Maintains at least one nine-hole golf course with separate and distinct golf playing  
198 holes;

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

201 (4) Owns or leases, controls, operates, and uses acreage amounting to at least 30  
202 contiguous acres of bounded or fenced real property which would be listed on the private nine-  
203 hole golf course's floorplan and could be used for golfing events and large contracted for group-  
204 type events such as weddings, reunions, conferences, meetings, and sporting or recreational  
205 events;

206 (5) Lists the entire property from subdivision (4) of this subsection and all adjoining  
207 buildings and structures on the private nine-hole golf course's floorplan which would comprise the  
208 licensed premises, which would be authorized for the lawful sales, service, and consumption of  
209 alcoholic liquors throughout the licensed premises whether these activities were conducted in a  
210 building or structure or outdoors while on the private nine-hole golf course's licensed premises  
211 and as noted on the private nine-hole golf course's floorplan;

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

214 (7) Shall meet and be subject to all other private club requirements; and

215 ~~(7)~~(8) Utilizes an age verification system approved by the commissioner.

216 (m) "Private tennis club" means an applicant for a private club or licensed private club  
217 licensee meeting the criteria set forth in this subsection which:

218 (1) Has at least 100 members;

219 (2) Maintains at least five separate and distinct tennis courts, either indoor or outdoor, and  
220 a clubhouse or similar facility;

221 (3) Has a restaurant and full kitchen with ovens, as determined by the commissioner, on  
222 the licensed premises and is capable of serving freshly prepared food;

223 (4) Owns or leases, controls, operates, and uses acreage amounting to at least two  
224 contiguous acres of bounded or fenced real property which would be listed on the private tennis  
225 club's floorplan and could be used for tennis events and large contracted for group-type events  
226 such as weddings, reunions, conferences, tournaments, meetings, and sporting or recreational  
227 events;

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

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

236 (7) Shall meet and be subject to all other private club requirements; and

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

238 (n) "Private wedding venue" means an applicant for a private club or licensed private club  
239 licensee that is only open for reserved weddings, reunions, conferences, meetings, or other  
240 events and does not maintain daily or regular operating hours, and further meeting the criteria set  
241 forth in this subsection which:

242 (1) Has at least 25 members;

243 (2) Maintains a venue, facility, barn, or pavilion primarily for weddings, reunions,  
244 conferences, meetings, or other events where parties must reserve the venue, facility, barn, or  
245 pavilion in advance of the event;

246 (3) Operates a restaurant and full kitchen with ovens, as determined by the commissioner,  
247 on the licensed premises and capable of serving freshly prepared food, or may engage a food  
248 caterer to provide adequate freshly prepared food or meals to serve its stated members, guests,

249 and patrons who will be attending the event at the private wedding venue, and further the applicant  
250 or licensee shall provide any documentation or agreements of such to the commissioner prior to  
251 approval of this food catering arrangement;

252 (4) Owns or leases, controls, operates, and uses acreage amounting to at least two  
253 contiguous acres of bounded or fenced real property or can verify that if the property is less than  
254 two acres that the property is remotely located, as determined by the commissioner, which would  
255 be listed on the private wedding venue's floorplan and could be used for contracted for group-  
256 type weddings, reunions, conferences, meetings, or other events;

257 (5) Lists the entire property from subdivision (4) of this subsection and all adjoining  
258 buildings and structures on the private wedding venue's floorplan which would comprise the  
259 licensed premises, which would be authorized for the lawful sales, service, and consumption of  
260 alcoholic liquors throughout the licensed premises whether these activities were conducted in a  
261 building or structure or outdoors while on the private wedding venue's licensed premises and as  
262 noted on the private wedding venue's floorplan;

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

265 (7) Shall meet and be subject to all other private club requirements; and

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

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

**§60-7-6. Annual license fee; partial fee; and reactivation fee.**

1 (a) The annual license fee for a license issued under the provisions of this article to a  
2 fraternal or veterans' organization or a nonprofit social club shall be \$750.

3 (b) The annual license fee for a license issued under the provisions of this article to a  
4 private club other than a private club of the type specified in subsection (a) of this section shall be  
5 \$1,000 if the private club has fewer than 1,000 members, ~~\$2,000~~ \$1,500 if the private club is a  
6 private nine-hole golf course, private tennis club or a private wedding venue as defined in §60-7-  
7 2 of this code; \$2,500 if the private club has 1,000 or more members, or is a private golf club as  
8 defined in §60-7-2 of this code; \$4,000 if the private club is a private hotel with three or fewer  
9 designated areas or a private-golf night club as defined in §60-7-2 of this code, and further, if the  
10 private club is a private resort hotel as defined in §60-7-2 of this code, said private resort hotel  
11 may designate areas within the licensed premises for the lawful sale, service, and consumption  
12 of alcoholic liquors as provided for by this article. The annual license fee for a private resort hotel  
13 with five or fewer designated areas shall be \$7,500, and the annual license fee for a private resort  
14 hotel with at least six but no more than 10 designated areas shall be \$12,500. The annual license  
15 fee for a private resort hotel with at least 11 but no more than 15 designated areas shall be  
16 \$17,500. The annual license fee for a private resort hotel with no fewer than 15 nor more than 20  
17 designated areas shall be \$22,500: *Provided*, That a private resort hotel having obtained the  
18 license and paid the \$22,500 annual license fee may, upon application to and approval of the  
19 commissioner, designate additional areas for a period not to exceed seven days for an additional  
20 fee of \$150 per day, per designated area.

21 (c) The fee for any such license issued following January 1 of any year and to expire on  
22 June 30 of such year shall be one half of the annual license fee prescribed by subsections (a)  
23 and (b) of this section.

24 (d) A licensee that fails to complete a renewal application and make payment of its annual  
25 license fee in renewing its license on or before June 30 of any subsequent year, after initial  
26 application, shall be charged an additional \$150 reactivation fee. The fee payment may not be  
27 prorated or refunded, and the reactivation fee must be paid prior to the processing of any renewal  
28 application and payment of the applicable full year annual license fee. A licensee who continues

29 to operate upon the expiration of its license is subject to all fines, penalties, and sanctions  
30 available in §60-7-13 and §60-7-13a of this code, all as determined by the commissioner.

31 (e) All such fees shall be paid by the commissioner to the State Treasurer and credited to  
32 the General Revenue Fund of the state.

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

1 (a) There is hereby created a special license designated Class S2 private fair and festival  
2 license for the retail sale of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer for  
3 on-premises consumption.

4 (b) There is hereby created a special license designated Class S3 private multi-vendor fair  
5 and festival license for the retail sale of liquor, wine, nonintoxicating beer, and nonintoxicating  
6 craft beer for on-premises consumption.

7 (c) To be eligible for the license authorized by subsection (a) of this section, the private  
8 fair and festival or other event shall:

9 (1) Be sponsored, endorsed, or approved by the governing body or its designee of the  
10 county or municipality in which the private fair and festival or other event is located;

11 (2) Shall make application with the commission at least 15 days pursuant to the private  
12 fair, festival, or other event;

13 (3) Pay a nonrefundable nonprorated license fee of \$750; and

14 (4) Be approved by the commissioner to operate the private fair, festival, or other event.

15 (d) To be eligible for the license authorized by subsection (b) of this section, the private  
16 multi-vendor fair and festival or other event shall:

17 (1) Be sponsored, endorsed, or approved by the governing body or its designee of the  
18 county or municipality in which the private multi-vendor fair and festival or other event is located;

19 (2) Shall make application with the commission at least 15 days pursuant to the private

20 multi-vendor fair, festival, or other event;

21 (3) Pay a nonrefundable nonprorated license fee of \$1,500; and

22 (4) Be approved by the commissioner to operate the private multi-vendor fair, festival, or  
23 other event.

24 ~~(e)~~ (e) A private fair and festival license under this section shall be for a duration of no  
25 more than 10 consecutive days and no more than six licenses may be issued to the same person  
26 or entity in a calendar year.

27 (f) A private multi-vendor fair and festival license under this section shall be for a duration  
28 of no more than one day and no more than six licenses may be issued to the same person or  
29 entity in a calendar year. Separate applications may be filed and licenses may be issued for  
30 consecutive days.

31 ~~(d)~~(g) Nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or  
32 served pursuant to the S2 and S3 licenses created by this section must be purchased from the  
33 licensed distributor that services the area in which the private fair and festival is held or from a  
34 resident brewer acting in a limited capacity as a distributor, all in accordance with §11-16-1 *et*  
35 *seq.* of this code.

36 ~~(e)~~(h) Wine sold, furnished, tendered, or served pursuant to the S2 and S3 licenses  
37 created by this section shall be purchased from a licensed distributor, winery, or farm winery in  
38 accordance with §60-8-1 *et seq.* of this code.

39 ~~(f)~~(i) Liquor sold, furnished, tendered, or served pursuant to the S2 and S3 licenses  
40 created by this section shall be purchased from a licensed retail liquor outlet in the market zone  
41 or contiguous market zone where the private fair or festival or private multi-vendor fair or festival  
42 is occurring, all in accordance with §60-3A-1 *et seq.* of this code.

43 ~~(g)~~(j) A licensee authorized by this section may utilize bona fide employees or volunteers  
44 to sell, furnish, tender, or serve the nonintoxicating beer, nonintoxicating craft beer, wine, or liquor.

45 ~~(h)~~(k) Licensed representatives of a brewer, resident brewer, beer distributor, wine

46 distributor, wine supplier, winery, farm winery, distillery, mini-distillery, and liquor broker  
 47 representatives may attend a private fair and festival or private multi-vendor fair and festival and  
 48 discuss their respective products but shall not engage in the selling, furnishing, tendering, or  
 49 serving of any nonintoxicating beer, nonintoxicating craft beer, wine, or liquor.

50 ~~(i)(l)~~ A licensee authorized by this section shall cease all operations by 1:00 a.m., including  
 51 but not limited to: Alcohol sales, alcohol purchases, alcohol consumption, and any entertainment  
 52 or other related activity, and all staff or employees who are cleaning or closing the fair or festival  
 53 shall leave the licensed premises and the licensed premises closes by 2:00 a.m.

54 ~~(j)(m)~~ A license issued under this section and the licensee are subject to all other  
 55 provisions of this article and the rules and orders of the commissioner: *Provided*, That the  
 56 commissioner may by rule or order allow certain waivers or exceptions with respect to those  
 57 provisions, rules, or orders as the circumstances of each private fair and festival require, including  
 58 without limitation, the right to revoke or suspend immediately any license issued under this section  
 59 prior to any notice or hearing, notwithstanding §60-7-13a of this code: *Provided, however*, That  
 60 under no circumstances may the provisions of §60-7-12 of this code be waived or an exception  
 61 granted with respect thereto.

**§60-7-12. Certain acts of licensee prohibited; criminal penalties.**

1 (a) It is unlawful for any licensee, or agent, employee, or member thereof, on such  
 2 licensee's premises to:

3 (1) Sell, offer for sale, tender, or serve any alcoholic liquors other than by the drink poured  
 4 from the original package or container, except as authorized in §60-6-8 of this code;

5 (2) Authorize or permit any disturbance of the peace, obscene, lewd, immoral, or improper  
 6 entertainment, conduct, or practice, gambling, or any slot machine, multiple coin console  
 7 machine, multiple coin console slot machine, or device in the nature of a slot machine; however,  
 8 various games, gaming, and wagering conducted by duly licensed persons of the West Virginia  
 9 State Lottery Commission, charitable bingo games conducted by duly licensed charitable or public



10 service organization (or its auxiliaries), pursuant to §47-20-1 *et seq.* of this code, and charitable  
11 raffle games conducted by a duly licensed charitable or public service organization (or its  
12 auxiliaries), pursuant to §47-21-1 *et seq.* of this code, all of which are permissible on a licensee's  
13 licensed premises when operated in accordance with this code, rules, and regulations: *Provided,*  
14 That a private resort hotel holding a license issued pursuant to §60-7-1 *et seq.* of this code, may  
15 sell, tender, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on the premises  
16 licensed under §29-22A-1 *et seq.* and §29-22C-1 *et seq.*, or §29-25-1 *et seq.* of this code, during  
17 hours of operation authorized by §29-22A-1 *et seq.* and §29-22C-1 *et seq.*, or §29-25-1 *et seq.* of  
18 this code;

19 (3) Sell, give away, or permit the sale of, gift to, or the procurement of any nonintoxicating  
20 beer, wine, or alcoholic liquors for or to, or permit the consumption of nonintoxicating beer, wine,  
21 or alcoholic liquors on the licensee's premises, by any person less than 21 years of age;

22 (4) Sell, give away, or permit the sale of, gift to, or the procurement of any nonintoxicating  
23 beer, wine, or alcoholic liquors, for or to any person known to be deemed legally incompetent, or  
24 for or to any person who is physically incapacitated due to consumption of nonintoxicating beer,  
25 wine, or alcoholic liquor or the use of drugs;

26 (5) Sell, give, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on any  
27 licensed premises, or in any rooms directly connected therewith between the hours of 3:00 a.m.  
28 and 7:00 a.m. on weekdays or Saturdays, between the hours of 3:00 a.m. and 10:00 a.m. on any  
29 Sunday or, between the hours of 3:00 a.m. and 1:00 p.m. in any county upon approval as provided  
30 for in §7-1-3ss of this code, on any Sunday; except that a private night club licensee shall not sell,  
31 give, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on any licensed premises,  
32 or in any rooms directly connected therewith between the hours of 3:30 a.m. and 7:00 a.m. on  
33 weekdays or Saturdays, between the hours of 3:30 a.m. and 10:00 a.m. on any Sunday or,  
34 between the hours of 3:30 a.m. and 1:00 p.m. in any county upon approval as provided for in §7-  
35 1-3ss of this code: *Provided:* That a private night club shall cease all music, entertainment,

36 dancing or other related activities at 3 a.m., and the licensed premises shall be closed and all  
37 staff, employees, patrons and persons shall be exited from the licensed premises by 4 a.m.:  
38 Provided further. That a private fair or festival and a private multi-vendor fair or festival must cease  
39 operations and cease all activities as set forth in §60-7-8a(i) of this code;

40 (6) Permit the consumption by, or serve to, on the licensed premises any nonintoxicating  
41 beer, wine, or alcoholic liquors, covered by this article, to any person who is less than 21 years of  
42 age;

43 (7) With the intent to defraud, alter, change, or misrepresent the quality, quantity, or brand  
44 name of any alcoholic liquor;

45 (8) Sell or offer for sale any alcoholic liquor to any person who is not a duly elected or  
46 approved dues-paying member in good standing of said private club or a guest of such member;

47 (9) Sell, offer for sale, give away, facilitate the use of, or allow the use of carbon dioxide,  
48 cyclopropane, ethylene, helium, or nitrous oxide for purposes of human consumption except as  
49 authorized by the commissioner;

50 (10)(A) Employ any person who is less than 18 years of age in a position where the primary  
51 responsibility for such employment is to sell, furnish, tender, serve, or give nonintoxicating beer,  
52 wine, or alcoholic liquors to any person;

53 (B) Employ any person who is between the ages of 18 and 21 who is not directly  
54 supervised by a person aged 21 or over in a position where the primary responsibility for such  
55 employment is to sell, furnish, tender, serve, or give nonintoxicating beer, wine, or alcoholic  
56 liquors to any person; or

57 (11) Violate any reasonable rule of the commissioner.

58 (b) It is lawful for any licensee to advertise price and brand in any news media or other  
59 means, outside of the licensee's premises.

60 (c) Any person who violates any of the foregoing provisions is guilty of a misdemeanor  
61 and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000, or

62 imprisoned in jail for a period not to exceed one year, or both fined and imprisoned.

## **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.**

1           Any proprietor or any person in charge of a dance house, concert saloon, theater,  
 2 museum, or similar place of amusement, or other place, where wines or spirituous or malt liquors  
 3 are sold or given away, or any place of entertainment injurious to health or morals who admits or  
 4 permits to remain therein any minor under the age of 18 years, unless accompanied by his or her  
 5 parent or guardian, is guilty of a misdemeanor and, on conviction thereof, shall be punished by a  
 6 fine not exceeding \$200: *Provided*, That there is exemption from this prohibition for: (a) A private  
 7 hotel, private nine-hole golf course, private resort hotel, ~~and private golf club,~~ private tennis club,  
 8 private wedding venue licensed pursuant to §60-7-1 *et seq.* of this code and in compliance with  
 9 ~~§60-7-2(g)(8)(9), §60-7-2(h)(7)(l)(8), §60-7-2(i)(7)(j)(8), and §60-7-2(j)(7)(k)(8), §60-7-2(m)(8),~~  
 10 and §60-7-2(n)(8) of this code; (b) a private club with more than 1,000 members that is in good  
 11 standing with the Alcohol Beverage Control Commissioner, that has been approved by the Alcohol  
 12 Beverage Control Commissioner and which has designated certain seating areas on its licensed  
 13 premises as nonalcoholic liquor and nonintoxicating beer areas, as noted in the licensee's  
 14 floorplan; or (c) a private fair and festival and a private multi-vendor fair or festival that ~~is~~ are in  
 15 compliance with ~~§60-7-2(f)(7)(9) and §60-7-2(h)(10)~~ of this code, by utilizing a mandatory carding  
 16 or identification program whereby all members or guests being served or sold alcoholic liquors,  
 17 nonintoxicating beer, or nonintoxicating craft beer are asked and must provide their proper  
 18 identification to verify their identity and further that they are of legal drinking age, 21 years of age  
 19 or older, prior to each sale or service of alcoholic liquors, nonintoxicating beer, or nonintoxicating  
 20 craft beer.

NOTE: The purpose of this bill is to create new private club licenses for: (1) A private multi-vendor fair or festival permitting multi different licensed vendors to sell alcohol at a singular event; (2) a private night club where subject to public health and safety requirements a club may stay open until 4 a.m.; (3) a private tennis club license to license certain indoor and outdoor tennis facilities; and (4) a private wedding venue where events are held on a reservation basis and the location is not open for regular daily operations. The bill would permit private night clubs to close at 4 a.m. while ceasing entertainment at 3 a.m. and ceasing alcohol sales at 3:30 am. The bill sets the closing hours for private fairs and festivals and private multi-vendor fairs and festivals at 1 a.m. with staff and employees out by 2 a.m. The bill also allows for the exemption of certain private clubs from the minor admission requirements. The bill also makes technical edits, renumbering and other edits.

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