WEST virginia legislature

2024 regular session

Committee Substitute

for

Senate Bill 50

By Senator Woodrum

[Originating in the Committee on the Judiciary; reported January 30, 2024]

A BILL to amend and reenact §64-7-1 *et seq.* of the Code of West Virginia, 1931, as amended, relating generally to authorizing certain agencies of the Department of Revenue to promulgate legislative rules; authorizing the rules as filed, as modified, and as modified and amended by the Legislative Rule-Making Review Committee, and as amended by the Legislature; directing certain agencies of the Department of Revenue to amend current legislative rules; directing the Alcohol Beverage Control Commissioner to amend a legislative rule relating to private club licensing; directing the Alcohol Beverage Control Commissioner to amend a legislative rule relating to nonintoxicating beer licensing and operations procedures; authorizing the West Virginia Insurance Commissioner to promulgate a legislative rule relating to AIDS regulation; authorizing the West Virginia Insurance Commissioner to promulgate a legislative rule relating to health benefit plan network access and adequacy; authorizing the West Virginia Insurance Commissioner to promulgate a legislative rule relating to bail bondsmen in criminal cases; authorizing the West Virginia Racing Commission to promulgate a legislative rule relating to thoroughbred racing; authorizing the West Virginia Tax Department to promulgate a legislative rule relating to aircraft operated under a fractional ownership program; authorizing the West Virginia Tax Department to promulgate a legislative rule relating to a citizen tax credit for property taxes paid; authorizing the West Virginia Tax Department to promulgate a legislative rule relating to income tax paid at the entity level by electing pass-through entities; authorizing the West Virginia Tax Department to promulgate a legislative rule relating to income tax credits for property taxes paid; authorizing the West Virginia Tax Department to promulgate a legislative rule relating to administration of the tax on purchases of wine and liquor inside and outside of municipalities; and authorizing the West Virginia Tax Department to promulgate a legislative rule relating to the privilege tax on sales of hemp-derived cannabinoid and kratom products.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. Authorization for the depArtment of revenue to promulgate legislative rules.

§64-7-1. Alcohol Beverage Control Commissioner.

The Legislature directs the Alcohol Beverage Control Commissioner to amend the legislative rule filed in the State Register on July 1, 2022, authorized under the authority of §60-2-16 of this code, relating to the Alcohol Beverage Control (private club licensing, 175 CSR 02), with the amendments set forth below:

On page 30, section 4, by striking out all of subsections 4.8 and 4.9 and inserting in lieu thereof a new subsection 4.8, to read as follows:

“4.8. Hours of operation. - The licensed premises of all private clubs shall be closed for operation and cleared of all members and guests 30 minutes after the hours of sale of alcoholic liquors and nonintoxicating beer have expired, except for: (i) a private resort hotel holding a license issued pursuant to W. Va. Code §60-7-1 et seq. may sell, tender, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on the licensed premises when also licensed under W. Va. Code §29-22A-1 et seq. and W. Va. Code §29-22C-1 et seq. or W. Va. Code §29-25-1 et seq.; (ii) members and guests staying at a private resort hotel, but the members and guests must clear any bar and restaurant areas 30 minutes after the hours of sale of alcoholic liquors and nonintoxicating beer have expired; and (iii) members and guests staying at a private hotel, but the members and guests must clear any bar and restaurant areas 30 minutes after the hours of sale of alcoholic liquors and nonintoxicating beer have expired. Employees of the licensee shall leave the licensed premises no later than one hour after the premises are closed for operation. Licensed premises shall not be occupied by members and guests any sooner than 30 minutes prior to the hours of sale of alcoholic liquors and nonintoxicating beer, except for: (i) a private resort hotel holding a license issued pursuant to W. Va. Code §60-7-1 et seq. may sell, tender, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on the licensed premises when also licensed under W. Va. Code §29-22A-1 et seq. and W. Va. Code §29-22C-1 et seq. or W. Va. Code §29-25-1 et seq.; (ii) members and guests staying at a private resort hotel where the members and guests may not enter any bar and restaurant areas until 30 minutes before the hours of sale of alcoholic liquors and nonintoxicating beer; and (iii) members and guests staying at a private hotel where the members and guests may not enter any bar and restaurant areas until 30 minutes before the hours of sale of alcoholic liquors and nonintoxicating beer. Employees may not enter any bar and restaurant serving areas until one hour before the hours of sale of alcoholic liquors and nonintoxicating beer.”

And,

By renumbering the remaining subsections.

§64-7-2. Alcohol Beverage Control Commissioner - Beer.

The Legislature directs the Alcohol Beverage Control Commissioner - Beer to amend the legislative rule filed in the State Register on July 1, 2022, authorized under the authority of §60-2-16 of this code, relating to the Alcohol Beverage Control - Beer (nonintoxicating beer licensing and operations procedures, 176 CSR 01), with the amendments set forth below:

On page 3, by adding a new subsection designated 2.18 to read as follows:

““Delivery day” means any day that the distributor is open for business.”;

And,

By renumbering the remaining subsections;

And,

On page 33, by striking out all of paragraph 6.3.d.3. and inserting in lieu thereof a new paragraph 6.3.d.3. to read as follows:

“6.3.d.3. A distributor or a resident brewer acting in a limited capacity as a distributor may rotate, stock, merchandise, price, and presell nonintoxicating beer in a licensed nonintoxicating beer retail establishment only on nonintoxicating beer or nonintoxicating craft beer delivery day.”

§64-7-3. West Virginia Insurance Commissioner.

1. The legislative rule filed in the State Register on March 29, 2023, authorized under the authority of §33-2-10 of this code, relating to the Insurance Commissioner (AIDS regulations, [114 CSR 27](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=114-27)), is authorized.
2. The legislative rule filed in the State Register on July 12, 2023, authorized under the authority of §33-55-9 of this code, modified by the West Virginia Insurance Commissioner to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 14, 2023, relating to the West Virginia Insurance Commissioner (health benefit plan network access and adequacy, [114 CSR 100](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=114-100)), is authorized.
3. The legislative rule filed in the State Register on July 11, 2023, authorized under the authority of §51-10-8 of this code, modified by the West Virginia Insurance Commissioner to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 14, 2023, relating to the West Virginia Insurance Commissioner (bail bondsmen in criminal cases, [114 CSR 103](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=114-103)), is authorized with the amendments set forth below:

“On page 3, paragraph 3.2.1.h., following the words "felony crime", by striking out the remainder of the paragraph and inserting a semi-colon.

And,

On page 6, after subsection 3.11., by adding a new subsection 3.12. to read as follows:

“3.12. Any person who has been convicted of a felony is not qualified to be licensed as a bail bondsman and the Commissioner shall not license any such person. The Commissioner shall revoke or not renew the license of a bail bondsman who is convicted of a felony, after licensure, and shall not renew the license of a bail bondsman who was previously convicted of a felony, and who was issued a license prior to the enactment of this subsection.".

§64-7-4. West Virginia Racing Commission.

The legislative rule filed in the State Register on July 26, 2023, authorized under the authority of §19-23-6 of this code, relating to the West Virginia Racing Commission (thoroughbred racing, [178 CSR 01](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=178-01)), is authorized with the amendment set forth below:

On page 67, subdivision 41.2.g., by striking out the words "Entry of a" and inserting in lieu thereof the word: "A".

§64-7-5. West Virginia Tax Department.

(a) The legislative rule filed in the State Register on March 28, 2023, authorized under the authority of §11-15-9p of this code, relating to the West Virginia Tax Department (aircraft operated under a fractional ownership program, [110 CSR 15K](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=110-15K)), is authorized.

(b) The legislative rule filed in the State Register on December 30, 2022, authorized under the authority of §29A-3-19 of this code, modified by the West Virginia Tax Department to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 21, 2023, relating to the West Virginia Tax Department (citizen tax credit for property taxes paid, [110 CSR 21B](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=110-21B)), is authorized.

(c) The legislative rule filed in the State Register on July 28, 2023, authorized under the authority of §11-21-3a of this code, relating to the West Virginia Tax Department (income tax paid at the entity level by electing pass-through entities, [110 CSR 21G](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=110-21G)), is authorized.

(d) The legislative rule filed in the State Register on July 25, 2023, authorized under the authority of §11-13MM-6 of this code, relating to the West Virginia Tax Department (income tax credits for property taxes paid, [110 CSR 21H](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=110-21H)), is authorized.

(e) The legislative rule filed in the State Register on December 30, 2022, authorized under the authority of §60-3-9d of this code, modified by the West Virginia Tax Department to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 21, 2023, relating to the West Virginia Tax Department (administration of tax on purchases of wine and liquor inside and outside of municipalities, [110 CSR 49](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=110-49)), is authorized.

(f) The legislative rule filed in the State Register on July 25, 2023, authorized under the authority of §19-12E-12 of this code, relating to the West Virginia Tax Department (privilege tax on sales of hemp-derived cannabinoid and kratom products, [110 CSR 99](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=110-99)), is authorized.