

H. B. 2388

(By Delegate Fragale)
[Introduced January 12, 2011; referred to the
Committee on the Judiciary then Finance.]

A BILL to amend and reenact §60-3A-18 and §60-3A-25 of the Code of
West Virginia, 1931, as amended; and to amend and reenact §60-
7-12 of said code, all relating to allowing the legal sale of
liquor and wine on Sunday to be the same hours as prescribed
for the sale of beer on Sunday.

Be it enacted by the Legislature of West Virginia:

That §60-3A-18 and §60-3A-25 of the Code of West Virginia,
1931, as amended, be amended and reenacted; and to amend and
reenact §60-7-12 of said code, all to read as follows:

ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSES.

§60-3A-18. Days and hours retail licensees may sell liquor.

Retail licensees may not sell liquor from two o'clock a.m. to
one o'clock p.m. on Sundays. Retail licensees also may not sell
liquor on Christmas or election day, or between the hours of twelve
midnight and eight o'clock a.m., except that wine and fortified
wines may be sold on such days and at such times as authorized in
section thirty-four, article eight of this chapter.

1 **§60-3A-25. Certain acts of retail licensees prohibited; criminal**
2 **penalties.**

3 (a) It is unlawful for any retail licensee, or agent or
4 employee thereof, on such retail licensee's premises to:

5 (1) Sell or offer for sale any liquor other than from the
6 original package or container;

7 (2) Sell, give away, or permit the sale of, gift of, or the
8 procurement of, any liquor, for or to any person under twenty-one
9 years of age;

10 (3) Sell, give away, or permit the sale of, gift of, or the
11 procurement of, any liquor, for or to any person visibly
12 intoxicated;

13 (4) Sell or offer for sale any liquor ~~on any Sunday or~~ other
14 than during the hours permitted for the sale of liquor by retail
15 licensees as provided under this article;

16 (5) Permit the consumption by any person of any liquor;

17 (6) With the intent to defraud, alter, change or misrepresent
18 the quality, quantity or brand name of any liquor;

19 (7) Permit any person under eighteen years of age to sell,
20 furnish or give liquor to any other person;

21 (8) Purchase or otherwise obtain liquor in any manner or from
22 any source other than that specifically authorized in this article;
23 or

24 (9) Permit any person to break the seal on any package or
25 bottle of liquor.

26 (b) Any person who violates any provision of this article,

1 except section twenty-four of this article, including, but not
2 limited to, any provision of this section, or any rule promulgated
3 by the board or the commissioner, or who makes any false statement
4 concerning any material fact, or who omits any material fact with
5 intent to deceive, in submitting an application for a retail
6 license or for a renewal of a retail license or in any hearing
7 concerning the suspension or revocation thereof, or who commits any
8 of the acts declared in this article to be unlawful, is guilty of
9 a misdemeanor and, shall, upon conviction thereof, for each offense
10 be fined not less than \$100 or more than \$5,000, or imprisoned in
11 the county jail for not less than thirty days nor more than one
12 year, or both fined and imprisoned. Magistrates have concurrent
13 jurisdiction with the circuit courts for offenses under this
14 article.

15 (c) Nothing in this article, or any rule of the board or
16 commissioner, prevents or prohibits any retail licensee from
17 employing any person who is at least eighteen years of age to serve
18 in any retail licensee's lawful employment at any retail outlet
19 operated by such retail licensee, or from having such person sell
20 or deliver liquor under the provisions of this article. With the
21 prior approval of the commissioner, a retail licensee may employ
22 persons at any retail outlet operated by such retail licensee who
23 are less than eighteen years of age but at least sixteen years of
24 age, but such persons' duties shall not include the sale or
25 delivery of liquor: *Provided*, That the authorization to employ
26 such persons under the age of eighteen years shall be clearly

1 indicated on the retail license issued to any such retail licensee.

2 **ARTICLE 7. LICENSES TO PRIVATE CLUBS.**

3 **§60-7-12. Certain acts of licensee prohibited; criminal penalties.**

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

6 (1) Sell or offer for sale any alcoholic liquors other than
7 from the original package or container;

8 (2) Authorize or permit any disturbance of the peace; obscene,
9 lewd, immoral or improper entertainment, conduct or practice,
10 gambling or any slot machine, multiple coin console machine,
11 multiple coin console slot machine or device in the nature of a
12 slot machine;

13 (3) Sell, give away or permit the sale of, gift to or the
14 procurement of any nonintoxicating beer, wine or alcoholic liquors
15 for or to, or permit the consumption of nonintoxicating beer, wine
16 or alcoholic liquors on the licensee's premises, by any person less
17 than twenty-one years of age;

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

24 (5) Sell, give or dispense beer, nonintoxicating beer, wine or
25 alcoholic liquors in or on any licensed premises or in any rooms
26 directly connected therewith, between the hours of three o'clock

1 a.m. and one o'clock p.m. on any Sunday;

2 (6) Permit the consumption by, or serve to, on the licensed
3 premises any nonintoxicating beer, wine or alcoholic liquors,
4 covered by this article, to any person who is less than twenty-one
5 years of age;

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

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

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

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

19 (B) Employ any person who is between the ages of eighteen and
20 twenty-one who is not directly supervised by a person aged twenty-
21 one or over in a position where the primary responsibility for such
22 employment is to sell, furnish or give nonintoxicating beer, wine
23 or alcoholic liquors to any person; or

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

25 (b) It is unlawful for any licensee to advertise in any news
26 media or other means, outside of the licensee's premises, the fact

1 that alcoholic liquors may be purchased thereat.

2 (c) Any person who violates any of the foregoing provisions is
3 guilty of a misdemeanor and, upon conviction thereof, shall be
4 fined not less than \$500 nor more than \$1,000, or imprisoned in
5 jail for a period not to exceed one year, or both fined and
6 imprisoned.

NOTE: This bill shall allow the legal sale of liquor and wine on Sunday to be the same hours as prescribed for the sale of beer on Sunday.

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