

Senate Bill No. 152

(By Senators Unger, Laird and Stollings)

[Introduced February 14, 2013; referred to the Committee on the
Judiciary.]

10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §60-3A-3b; to amend
12 and reenact §60-3A-4 of said code; and to amend said code by
13 adding thereto a new section, designated §60-7-9, all relating
14 to requiring certain employees of licensed private clubs and
15 retail outlets selling alcoholic beverages to take the
16 Techniques for Education and Alcohol Management course, the
17 Training for Intervention Procedures course, alcohol awareness
18 programs provided by the American Hotel and Lodging
19 Association or the National Restaurant Association or other
20 similar alcohol awareness education courses provided or
21 approved by the Alcohol Beverage Control Commissioner;
22 allowing for the training to be done onsite by a manager or
23 supervisor; and providing legislative rule-making authority.

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

2 That the Code of West Virginia, 1931, as amended, be amended
3 by adding thereto a new section, designated §60-3A-3b; that §60-3A-
4 4 of said code be amended and reenacted; and that said code be
5 amended by adding thereto a new section, designated §60-7-9, all to
6 read as follows:

7 **ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.**

8 **§60-3A-3b. Mandatory training for retail outlet employees.**

9 (a) Any point of sale employee of a retail outlet licensed
10 pursuant to the provisions of this article, who is hired on or
11 after July 1, 2013, shall participate in the techniques for
12 education and alcohol management program (TEAM), the training for
13 intervention procedures course (TIPS), alcohol awareness programs
14 provided by the American Hotel and Lodging Association or the
15 National Restaurant Association or other similar alcohol awareness
16 education programs provided or approved by the commissioner, within
17 sixty days of commencing employment and at least once every three
18 years thereafter. Any point of sale employee who was employed
19 prior to July 1, 2013, shall participate in one of the training
20 programs specified in this section or other similar programs
21 provided or approved by the commissioner before July 1, 2014, and
22 at least once every three years thereafter.

23 (b) The commissioner shall propose rules for legislative

1 approval in accordance with the provisions of article three,
2 chapter twenty-nine-a of this code to implement the provisions of
3 this section. These rules shall provide that the training may be
4 offered to point of sale employees by a supervisor or manager or
5 someone designated by the supervisor or manager to provide the
6 training once these individuals have successfully completed the
7 course and can offer the required training on-site without
8 requiring the point of sale employee to attend off-site training.

9 **§60-3A-4. Definitions.**

10 (a) "Active retail license" means a current license for a
11 retail outlet that has been open and in continuous operation for a
12 period of not less than twelve months prior to July 1, 2010, or
13 July 1 every ten years thereafter.

14 (b) "Active retail licensee" means a person who holds an
15 active retail license at the time of the effective date of the
16 amendments to this section during the first extraordinary session
17 of the Legislature in 2009 or that person's successor or any person
18 who holds an active retail license when it expires at the end of a
19 ten-year period.

20 (c) "Applicant" means any person who elects to pay a purchase
21 option for a Class A retail license, who bids for a retail license
22 or who seeks the commissioner's approval to purchase or otherwise
23 acquire a retail license from a retail licensee, in accordance with

1 the provisions of this article.

2 (d) "Application" means the form prescribed by the
3 commissioner which must be filed with the commissioner by any
4 person bidding for a retail license.

5 (e) "Board" means the Retail Liquor Licensing Board created by
6 this article.

7 (f) "Class A retail license" means a retail license permitting
8 the retail sale of liquor at a freestanding liquor retail outlet.

9 (g) "Class B retail license" means a retail license permitting
10 the sale of liquor at a mixed retail liquor outlet.

11 (h) "Commissioner" means the West Virginia Alcohol Beverage
12 Control Commissioner as set forth in article 2 of this chapter.

13 ~~(h)~~(i) "Current retail licensee" means a person who holds a
14 retail license at the time of the effective date of the amendments
15 to this section during the first extraordinary session of the
16 Legislature in 2009 or that person's successor or any person who
17 holds a retail license when it expires at the end of a ten-year
18 period.

19 ~~(i)~~ (j) "Designated areas" means one or more geographic areas
20 within a market zone designated as such by the board.

21 ~~(j)~~ (k) "Executive officer" means the president or other
22 principal officer, partner or member of an applicant or retail
23 licensee, any vice president or other principal officer, partner or

1 member of an applicant or retail licensee in charge of a principal
2 business unit or division, or any other officer, partner or member
3 of an applicant or retail licensee who performs a policy-making
4 function.

5 ~~(k)~~ (l) "Freestanding liquor retail outlet" means a retail
6 outlet that sells only liquor, beer, nonintoxicating beer and other
7 alcohol-related products, including tobacco-related products.

8 ~~(l)~~ (m) "Liquor" means alcoholic liquor as defined in section
9 five, article one of this chapter and also includes both wine and
10 fortified wines as those terms are defined in section two, article
11 eight of this chapter.

12 ~~(m)~~ (n) "Liquor sampling event" means an event approved by the
13 commissioner, for a Class A retail licensee to hold a liquor
14 sampling authorized pursuant to section three-a of this article.

15 ~~(n)~~ (o) "Market zone" means a geographic area designated as
16 such by the board for the purpose of issuing retail licenses.

17 ~~(o)~~ (p) "Mixed retail liquor outlet" means a retail outlet
18 that sells liquor, beer, nonintoxicating beer and other
19 alcohol-related products, including tobacco-related products, in
20 addition to convenience and other retail products.

21 ~~(p)~~ (q) "Person" means an individual, firm, corporation,
22 association, partnership, limited partnership, limited liability
23 company or other entity, regardless of its form, structure or

1 nature.

2 (r) "Point of sale employee" means an employee of a retail
3 outlet as defined in this section or a private club as defined in
4 subsection (a), section two, article seven of this chapter at the
5 place where the sale or purchase of liquor is made.

6 ~~(q)~~ (s) "Retail license" means a license issued under the
7 provisions of this article permitting the sale of liquor at retail.

8 ~~(r)~~ (t) "Retail licensee" means the holder of a retail license.

9 ~~(s)~~ (u) "Retail outlet" means a specific location where liquor
10 may be lawfully sold by a retail licensee under the provisions of
11 this article.

12 ~~(t)~~ (v) "Sampling day" means any days and hours of the week
13 where retail licensees may sell liquor pursuant to section
14 eighteen, article three-a, chapter sixty of this code for a Class
15 A retail licensee to conduct a liquor sampling event.

16 ~~(u)~~ (w) "West Virginia product" means all liquor types and
17 classes as approved by the commissioner and maintained on the ABCA
18 retail liquor product list.

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

20 **§60-7-9. Mandatory training for private club employees.**

21 (a) Any employee of a private club licensed pursuant to the
22 provisions of this article, who serves alcohol and who is hired on
23 or after July 1, 2013, shall participate in the techniques for

1 education and alcohol management program (TEAM), the training for
2 intervention procedures course (TIPS), alcohol awareness programs
3 provided by the American Hotel and Lodging Association or the
4 National Restaurant Association or other similar alcohol awareness
5 education programs provided or approved by the commissioner, within
6 sixty days of commencing employment and at least once every three
7 years thereafter. Any employee who serves alcohol and who was
8 employed prior to July 1, 2013, shall participate in one of the
9 training programs specified in this section or other similar
10 programs provided or approved by the commissioner before July 1,
11 2014, and at least once every three years thereafter.

12 (b) The commissioner shall propose rules for legislative
13 approval in accordance with the provisions of article three,
14 chapter twenty-nine-a of this code to implement the provisions of
15 this section. These rules shall provide that the training may be
16 offered to point of sale employees by a supervisor or manager or
17 someone designated by the supervisor or manager to provide the
18 training once these individuals have successfully completed the
19 course and can offer the required training on-site without
20 requiring the point of sale employee to attend off-site training.

NOTE: The purpose of this bill is to require certain employees

of licensed private clubs and retail outlets selling alcoholic beverages to take the techniques for education and alcohol management course, the training for intervention procedures course, alcohol awareness programs provided by the American Hotel and Lodging Association or the National Restaurant Association or other similar alcohol awareness education courses provided or approved by the Alcohol Beverage Control Commissioner.

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

§60-3A-3b and §60-7-9 are new; therefore, strike-throughs and underscoring have been omitted.