

**Senate Bill No. 450**

(By Senators Walters, Blair, Carmichael, McCabe, Palumbo and  
Wells)

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[Introduced January 30, 2014; referred to the Committee on the  
Judiciary.]  
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A BILL to amend and reenact §60-1-5 of the Code of West Virginia,  
1931, as amended, relating to the sale and consumption of  
alcoholic liquors in outdoor dining areas adjoining an ABCA-  
licensed facility.

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

That §60-1-5 of the Code of West Virginia, 1931, as amended,  
be amended and reenacted to read as follows:

**ARTICLE 1. GENERAL PROVISIONS.**

**§60-1-5. Definitions.**

For the purposes of this chapter:

"Alcohol" shall mean ethyl alcohol whatever its origin and  
shall include synthetic ethyl alcohol but not denatured alcohol.

"Beer" shall mean any beverage obtained by the fermentation of  
barley, malt, hops, or any other similar product or substitute, and  
containing more alcohol than that of nonintoxicating beer.

1 "Nonintoxicating beer" shall mean any beverage, obtained by  
2 the fermentation of barley, malt, hops, or similar products or  
3 substitute, and containing not more alcohol than that specified by  
4 section two, article sixteen, chapter eleven.

5 "Wine" shall mean any alcoholic beverage obtained by the  
6 fermentation of the natural content of fruits, or other  
7 agricultural products, containing sugar.

8 "Spirits" shall mean any alcoholic beverage obtained by  
9 distillation and mixed with potable water and other substances in  
10 solution, and includes brandy, rum, whiskey, cordials and gin.

11 "Alcoholic liquor" shall include alcohol, beer, wine and  
12 spirits, and any liquid or solid capable of being used as a  
13 beverage, but shall not include nonintoxicating beer.

14 "Original package" shall mean any closed or sealed container  
15 or receptacle used for holding alcoholic liquor.

16 "Sale" shall mean any transfer, exchange or barter in any  
17 manner or by any means, for a consideration, and shall include all  
18 sales made by principal, proprietor, agent or employee.

19 "Selling" shall include solicitation or receipt of orders;  
20 possession for sale; and possession with intent to sell.

21 "Person" shall mean an individual, firm, partnership, limited  
22 partnership, corporation or voluntary association.

23 "Manufacture" means to distill, rectify, ferment, brew, make,  
24 mix, concoct, process, blend, bottle, or fill an original package

1 with any alcoholic liquor.

2 "Manufacturer" shall mean any person engaged in the  
3 manufacture of any alcoholic liquor, and among others includes a  
4 distiller, a rectifier, a wine maker and a brewer.

5 "Brewery" shall mean an establishment where beer is  
6 manufactured or in any way prepared.

7 "Winery" shall mean an establishment where wine is  
8 manufactured or in any way prepared.

9 "Distillery" shall mean an establishment where alcoholic  
10 liquor other than wine or beer is manufactured or in any way  
11 prepared.

12 "Public place" shall mean any place, building or conveyance to  
13 which the public has, or is permitted to have access, including  
14 restaurants, soda fountains, hotel dining rooms, lobbies, and  
15 corridors of hotels and any highway, street, lane, park or place of  
16 public resort or amusement: *Provided*, That the term "public place"  
17 shall not mean or include any of the above-named places or any  
18 portion or portions thereof which qualify and are licensed under  
19 the provisions of this chapter to sell alcoholic liquors for  
20 consumption on the premises: *Provided, however, That the term*  
21 "public place" shall not mean or include a demarcated dining area  
22 adjoining any portion or portions of an above-named place which  
23 qualifies and is licensed under the provisions of this chapter to  
24 sell alcoholic liquors for consumption on the premises.

1 "State liquor store" shall mean a store established and  
2 operated by the commission under this chapter for the sale of  
3 alcoholic liquor in the original package for consumption off the  
4 premises.

5 "An agency" shall mean a drugstore, grocery store or general  
6 store designated by the commission as a retail distributor of  
7 alcoholic liquor for the West Virginia Alcohol Beverage Control  
8 Commissioner.

9 "Department" shall mean the organization through which the  
10 commission exercises powers imposed upon it by this chapter.

11 "Commissioner" or "Commission" shall mean the West Virginia  
12 Alcohol Beverage Control Commissioner.

13 "Intoxicated" shall mean having one's faculties impaired by  
14 alcohol or other drugs to the point where physical or mental  
15 control or both are markedly diminished.

NOTE: The purpose of this bill is to define "public place" to clarify that facilities duly licensed to sell alcoholic liquors on the premises may do so in demarcated outdoor dining areas adjoining the ABCA-licensed facility.

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