

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 374

BY SENATORS ASHLEY, BOSO, FACEMIRE, GAUNCH,
HALL, LEONHARDT, ROMANO, TAKUBO, TRUMP, WALTERS
STOLLINGS, PLYMALE, BLAIR, PALUMBO, WILLIAMS AND
MILLER

[Introduced January 25, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend and reenact §60-4-3b of the Code of West Virginia, 1931, as amended, relating
 2 to permitting farm winery to supply wine it produces directly to customers if the customer
 3 is purchasing wine for resale purposes and the customer is a licensed carry-out,
 4 nonintoxicating beer retailer or wine specialty shop located in a dry county.

Be it enacted by the Legislature of West Virginia:

1 That §60-4-3b of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

ARTICLE 4. LICENSES.

§60-4-3b. Winery and farm winery license to manufacture and sell.

1 (a) *Sales of wine.* -- An operator of a winery or farm winery may offer wine produced by
 2 the winery or farm winery for retail sale to customers from the winery or farm winery for
 3 consumption off the premises only. Except for free complimentary samples offered pursuant to
 4 section one, article six of this chapter, customers are prohibited from consuming any wine on the
 5 premises of the winery or farm winery, unless such winery or farm winery has obtained a
 6 multicapacity winery or farm winery license.

7 (b) *Retail sales.* -- Every licensed winery or farm winery shall comply with the provisions
 8 of articles three, four and eight of this chapter as applicable to wine retailers, wineries and
 9 suppliers when properly licensed in such capacities, except as set forth in subsection (c) of this
 10 section.

11 (c) *Nonretail sales.* -- An operator of a farm winery may supply wine produced by the farm
 12 winery directly to customers if the customer is purchasing wine for resale purposes and the
 13 customer is a licensed carry-out nonintoxicating beer retailer or wine specialty shop located in a
 14 dry county.

15 ~~(e)~~ (d) *Payment of taxes and fees.* -- The winery or farm winery shall pay all taxes and
 16 fees required of licensed wine retailers and meet applicable licensing provisions as required by
 17 this chapter and by rule of the commissioner. Each winery or farm winery acting as its own supplier

18 shall submit to the Tax Commissioner the liter tax for all sales at the winery or farm winery each
19 month, as provided in article eight of this chapter.

20 ~~(d)~~ (e) *Advertising.* -- A winery or farm winery may advertise a particular brand or brands
21 of wine produced by it, and the price of the wine subject to federal requirements or restrictions.

22 ~~(e)~~ (f) *Limitations on licensees.* -- A winery or farm winery must maintain separate winery
23 or farm winery supplier, retailer and direct shipper licenses when acting in one or more of those
24 capacities, and must pay all associated license fees, unless such winery or farm winery holds a
25 license issued pursuant to the provisions of subdivision (12), subsection (b), section three, article
26 eight of this chapter. A winery or farm winery, if holding the appropriate licenses or a multicapacity
27 winery or farm winery license, may act as its own supplier; retailer for off-premises consumption
28 of its wine as specified in section two, article six of this chapter; private wine restaurant; and direct
29 shipper for wine produced by the winery or farm winery. All wineries must use a distributor to
30 distribute and sell their wine in the state, except for farm wineries. No more than one winery or
31 farm winery license may be issued to a single person or entity, and no person may hold both a
32 winery and a farm winery license.

33 (g) Notwithstanding any other provision of this code to the contrary and subject to the
34 provisions of this section, a farm winery may produce and supply wine it produces in all counties
35 in West Virginia, even if those counties are otherwise considered to be dry counties.

36 (h) Notwithstanding any other provision of this code to the contrary, a licensed carry out
37 nonintoxicating beer retailer or wine specialty shop located in a dry county may purchase and sell
38 wine produced by a farm winery and may obtain wine for resale by purchasing wine directly from
39 the farm winery as set forth in subsections (c) and (g) of this section.

NOTE: The purpose of this bill is to permit a farm winery to supply wine it produces directly to customers if the customer is purchasing wine for resale purposes and the customer is a licensed carry-out nonintoxicating beer retailer or wine specialty shop located in a dry county.

Strike-throughs indicate language that would be stricken from a heading or the present law

and underscoring indicates new language that would be added.