

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

**Introduced**

### **House Bill 4442**

**FISCAL  
NOTE**

BY DELEGATES HILL, CAPUTO, MANCHIN, HAMILTON,

ATKINSON AND IHLE

[Introduced February 8, 2016; Referred

to the Committee on Small Business,

Entrepreneurship and Economic Development then

Finance.]

1 A BILL to amend and reenact §60-4-3b of the Code of West Virginia, relating to exempting farm  
2 wineries from taxation for sales of wine to retail outlets.

*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.

10 (c) *Payment of taxes and fees.* -- The winery or farm winery shall pay all taxes and fees  
11 required of licensed wine retailers and meet applicable licensing provisions as required by this  
12 chapter and by rule of the commissioner. Each winery or farm winery acting as its own supplier  
13 shall submit to the Tax Commissioner the liter tax for all sales at the winery or farm winery each  
14 month, as provided in article eight of this chapter: Provided, That, effective July 1, 2016, sales of  
15 wine by farm wineries to retail outlets are exempt from the tax provided under section four, article  
16 four of this chapter.

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

19 (e) *Limitations on licensees.* -- A winery or farm winery must maintain separate winery or

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

NOTE: The purpose of this bill is to exempt farm wineries from the liter tax provided under §60-8-4 for sales of wine to retail outlets.

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