

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 426

BY SENATORS TRUMP, WELD, AND BOSO

[Introduced January 30, 2018; Referred

to the Committee on the Judiciary]

1 A BILL to amend and reenact §60-1-5a of the Code of West Virginia, 1931, as amended; to amend
 2 and reenact §60-4-3b of said code; to amend and reenact §60-6-7, §60-6-8, and §60-6-9
 3 of said code; to amend and reenact §60-7-3, §60-7-4, §60-7-5, and §60-7-12 of said code;
 4 and to amend and reenact §60-8-3 and §60-8-20 of said code, all relating to modernizing
 5 certain wine and alcohol laws by creating alternating wine proprietorships for wineries and
 6 farm wineries; clarifying sampling procedures and requirements for wineries and farm
 7 wineries; permitting certain charitable events to auction wine bottles for off-premises
 8 consumption; clarifying that consumption of alcoholic liquors in public is unlawful; clarifying
 9 that West Virginia licensees may only sell liquor by the drink; clarifying certain licensing
 10 requirements for licensure; clarifying prohibition on liquor bottle sales in Class A licenses;
 11 providing guidance on certain lawful conduct such as wine bottle sales and frozen drink
 12 machines; and permitting the sale of wine in Division II college stadiums.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GENERAL PROVISIONS.

§60-1-5a. Farm wineries defined.

1 (a) For the purpose of this chapter "Farm winery" means an establishment where in any
 2 year 50,000 gallons or less of wine and nonfortified dessert wine are manufactured exclusively
 3 by natural fermentation from grapes, other fruits or honey, or other agricultural products containing
 4 sugar and where port, sherry, and Madeira wine may also be manufactured, with 25 percent of
 5 such raw products being produced by the owner of such farm winery on the premises of that
 6 establishment and no more than 25 percent of such produce originating from any source outside
 7 this state. Any port, sherry, or Madeira wine manufactured by a winery or a farm winery must not
 8 exceed an alcoholic content of 22 percent alcohol by volume and shall be matured in wooden
 9 barrels or casks.

10 (b) Notwithstanding the provisions of subsection (a) of this section, a farm winery may
 11 include one off-farm location. The owner of a farm winery may provide to the commissioner

12 evidence, accompanied by written findings by the West Virginia Agriculture Commissioner in
13 support thereof, that the owner has planted on the premises of the farm winery young nonbearing
14 fruit plants. The commissioner may grant permission for one off-farm location in an amount equal
15 to that reasonably expected to be produced when the nonbearing fruit plants planted on the farm
16 winery come into full production. The length of time of the permission to use an off-farm location
17 shall be determined by the commissioner after consultation with the Agriculture Commissioner.

18 (c) Notwithstanding the provisions of subsection (a) of this section, a licensed farm winery
19 that meets the requirements in this chapter and who is in good standing with the state may enter
20 into an alternating wine proprietorship agreement with the owner of a farm located in West Virginia
21 to rent or lease wine production facilities, equipment, and space, including a separately bonded
22 wine area at the existing licensed farm winery's premises. The owner of a farm located in West
23 Virginia entering the alternating wine proprietorship agreement must be currently producing
24 grapes, other fruits or honey, or other agricultural products containing sugar as certified by the
25 West Virginia Agriculture Commissioner at its farm located in West Virginia. The owner of a farm
26 located in West Virginia renting or leasing wine production facilities, equipment, and space, as a
27 tenant of a licensed farm winery must separately meet federal requirements and state
28 requirements for a winery or farm winery and qualify and obtain such licensure. Further, no wine
29 produced by any of the parties to an alternating wine proprietorship agreement may be
30 commingled, and also the wine must be maintained in separate bonded areas and storage that is
31 sanitary. The parties to an alternating wine proprietorship agreement must maintain separate
32 businesses, produce wine separately from each entity, and shall not assist the other parties. The
33 owner of a farm located in West Virginia that is a party to an alternating wine proprietorship
34 agreement may only produce in any year 50,000 gallons or less of wine and nonfortified dessert
35 wine manufactured exclusively by natural fermentation from grapes, other fruits or honey, or other
36 agricultural products containing sugar and where port, sherry and Madeira wine may also be
37 manufactured, with 25 percent of such raw products being produced by the owner of such farm

38 on its farm location premises in West Virginia and no more than 25 percent of such produce
39 originating from any source outside this state. Any port, sherry, or Madeira wine manufactured by
40 a licensed winery, farm winery or farm with a validly entered alternating wine proprietorship
41 agreement must not exceed an alcoholic content of 22 percent alcohol by volume and shall be
42 matured in wooden barrels or casks. A farm and farm owner that is a party to an alternating wine
43 proprietorship agreement and licensed pursuant to this subsection must obtain licensure as a
44 farm winery and must meet the same requirements in the code and the rules, except where noted.
45 A licensed farm winery may enter into multiple alternating wine proprietorship agreements with
46 separate owners of farms located in West Virginia subject to the requirements of the code and
47 the rules, and must also have the requisite production facilities, equipment and space to safely
48 produce wine for all parties.

49 (d) Notwithstanding the provisions of subsection (a) of this section, alternating wine
50 proprietorship agreements in subsection (c) may also be entered into by two or more separate
51 owners of farms located in West Virginia to coown and share the use of wine production facilities,
52 equipment, and space including a separately bonded wine area for each owner of a farm located
53 in West Virginia. The two or more farms entering the alternating wine proprietorship agreement
54 must all be located in West Virginia and must be currently producing grapes, other fruits or honey,
55 or other agricultural products containing sugar as certified by the West Virginia Agriculture
56 Commissioner at the farms located in West Virginia. The farm owners, their farms located in West
57 Virginia and the premises where the wine will be manufactured must be located in West Virginia
58 and must each separately meet federal requirements and state requirements for a winery or farm
59 winery. Further, no wine produced by any of the parties to an alternating wine proprietorship
60 agreement may be commingled, and also the wine must be maintained in separate bonded areas
61 and storage that is sanitary. The parties to an alternating wine proprietorship agreement must
62 maintain separate businesses, produce wine separately from each entity, and shall not assist the
63 other parties. The owners of farms located in West Virginia that are parties to the alternating wine

64 proprietorship agreement may each only produce in any year 50,000 gallons or less of wine and
 65 nonfortified dessert wine manufactured exclusively by natural fermentation from grapes, other
 66 fruits or honey, or other agricultural products containing sugar and where port, sherry, and
 67 Madeira wine may also be manufactured, with 25 percent of such raw products being produced
 68 by the owner of such farms at their farm premises located in West Virginia and no more than 25
 69 percent of such produce originating from any source outside this state. Any port, sherry, or
 70 Madeira wine manufactured by a licensed winery, farm winery or farm with a validly entered
 71 alternating wine proprietorship agreement must not exceed an alcoholic content of 22 percent
 72 alcohol by volume and shall be matured in wooden barrels or casks. Farms and farm owners that
 73 are a party to an alternating wine proprietorship agreement and licensed pursuant to this sub-
 74 section must each obtain licensure as a farm winery and must meet the same requirements in the
 75 code and the rules, except where noted. Owners of farms located in West Virginia that obtain
 76 licensure as farm wineries and who are parties to a valid alternating wine proprietorship
 77 agreement to co-own or share facilities are subject to the requirements of the code and the rules
 78 and must also have the requisite production facilities, equipment, and space to safely produce
 79 wine for all parties to the alternating wine proprietorship agreement.

80 (e) The commissioner shall promulgate rules necessary to effectuate the requirements of
 81 this section.

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~~ or a farm
 3 winery's licensed farm location in West Virginia per §60-1-5a(c) and §60-1-5a(d) of this code for
 4 consumption off the premises only. Except for free complimentary samples, no more than three
 5 complimentary samples per patron and no greater, in volume, than one fluid ounce per such
 6 sample, offered pursuant to §60-6-1 of this code, customers are prohibited from consuming any

7 wine on the premises of the winery, ~~or farm winery~~ or farm winery's licensed farm location in West
8 Virginia per §60-1-5a(c) and §60-1-5a(d) of this code, unless such winery or farm winery has
9 obtained a multicapacity winery or farm winery license: *Provided*, That a licensed winery or farm
10 winery may offer complimentary samples per this subsection of wine manufactured by that
11 licensed winery or farm winery for consumption on the premises only on Sundays beginning at
12 10:00 a.m. in any county in which the same has been approved as provided in §7-1-3pp of this
13 code.

14 (b) *Retail sales.* — Every licensed winery or farm winery shall comply with the provisions
15 of §60-3-1 *et seq.*, §60-4-1 *et seq.*, and §60-8-1 *et seq.* of this code as applicable to wine retailers,
16 wineries, and suppliers when properly licensed in such capacities.

17 (c) *Payment of taxes and fees.* —

18 (1) The winery or farm winery shall pay all taxes and fees required of licensed wine
19 retailers and meet applicable licensing provisions as required by this chapter and by rule of the
20 commissioner.

21 (2) Each winery or farm winery acting as its own supplier shall submit to the Tax
22 Commissioner the liter tax for all sales at the winery or farm winery each month, as provided in
23 §60-8-1 *et seq.* of this code.

24 (3) The five percent wine excise tax, levied pursuant to §60-3-9d of this code or pursuant
25 to §8-13-7 of this code, may not be imposed or collected on purchases of wine in the original
26 sealed package for the purpose of resale in the original sealed package if the final purchase of
27 such wine is subject to the excise tax or if the purchase is delivered outside this state.

28 (4) No liter tax shall be collected on wine sold in the original sealed package for the
29 purpose of resale in the original sealed package if a subsequent sale of such wine is subject to
30 the liter tax.

31 (5) This section shall not be interpreted to authorize a purchase for resale exemption in
32 contravention of §11-15-9a of this code.

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

35 (e) *Limitations on licensees*. — A winery or farm winery must maintain separate winery or
 36 farm winery supplier, retailer and direct shipper licenses when acting in one or more of those
 37 capacities and must pay all associated license fees, unless such winery or farm winery holds a
 38 license issued pursuant to the provisions of §60-8-3(b)(12) of this code. A winery or farm winery,
 39 if holding the appropriate licenses or a multicapacity winery or farm winery license, may act as its
 40 own supplier; retailer for off-premises consumption of its wine as specified in §60-6-2 of this code;
 41 private wine restaurant; and direct shipper for wine produced by the winery or farm winery. All
 42 wineries must use a distributor to distribute and sell their wine in the state, except for farm
 43 wineries. No more than one winery or farm winery license may be issued to a single person or
 44 entity and no person may hold both a winery and a farm winery license. Farm wineries may enter
 45 into alternating wine proprietorship agreements pursuant to §60-1-5a of this code.

46 (f) For purposes of this section, terms will have the same meaning, where applicable, as
 47 provided in §8-13-7(b) of this code, otherwise the meaning shall be applied from §60-1-1 et seq.
 48 of this code.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

§60-6-7. Specific acts forbidden; indictment.

1 A person shall not:

2 (1) Manufacture or sell in this state without a license any alcoholic liquor, except as
 3 permitted by this article;

4 (2) Aid or abet in the manufacture or sale of alcoholic liquor without a license, except as
 5 permitted by this article;

6 (3) Sell, furnish, or serve without a license any alcoholic liquor other than permitted by this
 7 article;

8 (4) Adulterate any alcoholic liquor by the addition of any drug, methyl alcohol, crude,

9 unrectified or impure form of ethyl alcohol, or other foreign or deleterious substance or liquid;

10 (5) Refill, with alcoholic liquor, any bottle or other container in which alcoholic liquor has
11 been sold at retail in this state;

12 (6) Advertise any alcoholic liquor in this state except in accordance with the rules and
13 regulations of the commissioner; or

14 (7) Distribute, deal in, process, or use crowns, stamps or seals required under the authority
15 of this chapter, except in accordance with the rules and regulations prescribed by the
16 commissioner; or

17 (8) Manufacture or sell, aid or abet in the manufacture or sale, possess, use or in any
18 other manner provide or furnish powdered alcohol.

19 A person who violates any provision of this section shall be guilty of a misdemeanor and,
20 upon conviction shall be fined not less than \$50 nor more than \$500, or confined in jail not less
21 than 30 days nor more than one year or both such fine and imprisonment, for the first offense.
22 Upon conviction of a second or subsequent offense, the court may in its discretion impose a
23 penalty of confinement in the penitentiary for a period not to exceed three years. A person who
24 violates any provision of this section for the second or any subsequent offense under this section,
25 is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correction facility
26 for a period not to exceed three years.

27 An indictment for any first violation of subdivisions (1), (2) and (3) of this section, or any of
28 them, shall be sufficient if in form or effect as follows:

29 State of West Virginia
30 County of, to wit:

31 The Grand Jurors of the State of West Virginia, in and for the body of the County of,
32 upon their oaths present that, on the day of, 19...., in the said County of
33, did unlawfully, without a State license and without authorization under the Alcohol
34 Beverage Control Act, manufacture and sell, and aid and abet in the manufacture and sale of a

35 quantity of alcoholic liquor, against the peace and dignity of the state.

36 Any indictment under this section shall otherwise be in conformity with §62-9-1 *et seq.* of
37 this code.

§60-6-8. Unlawful sale or possession by licensee.

1 A licensed person shall not:

2 (1) Sell, furnish, or serve alcoholic liquors of a kind other than that which such license or
3 this chapter authorizes him or her to sell;

4 (2) Sell, furnish, or serve beer to which wine, spirits, or alcohol has been added;

5 (3) Sell, furnish, or serve wine to which other alcoholic spirits have been added, otherwise
6 than as required in the manufacture thereof under regulations of the commission;

7 (4) Sell, furnish, or serve alcoholic liquors to a person specified in §60-3-22 of this chapter;

8 (5) Sell, furnish, or serve alcoholic liquors except as authorized by his or her license, such
9 as, Class A licensees licensed by §60-7-1 *et seq.*, and §60-8-1 *et seq.*, of this code for on
10 premises consumption shall only sell or serve alcoholic liquors only by the drink, and not by the
11 bottle, except for Class A licensees licensed by §60-7-1 *et seq.*, and §60-8-1 *et seq.*, of this code
12 who may, when selling or serving wine accompanied with freshly prepared food or meals in
13 excess of \$15, permit wine bottle service at a table comprised of two or more patrons, ages 21
14 years of age or older, consuming the meal and the wine, and further that alcoholic liquors may be
15 removed from the original container and poured to use in frozen drink mixing machines, provided
16 that such machines are emptied and sanitized daily with any unused mixed alcoholic liquors being
17 disposed of, by the end of operations, the same day the product was mixed;

18 (6) Sell, furnish, or serve any alcoholic liquor when forbidden by the provisions of this
19 chapter;

20 (7) Sell, possess, possess for sale, furnish, or provide any powdered alcohol;

21 (8) Keep on the premises covered by his or her license alcoholic liquor other than that
22 which he or she is authorized to sell, furnish, or serve by such license or by this chapter.

23 A person who violates any provision of this section shall be guilty of a misdemeanor and,
24 upon conviction shall be fined not less than \$50 nor more than \$500, or confined in jail not less
25 than 30 days nor more than one year, or both such fine and imprisonment for the first offense.
26 Upon conviction of a second or subsequent offense, the court may in its discretion impose a
27 penalty of confinement in the penitentiary for a period not to exceed three years. A person who
28 violates any provision of this section for the second or any subsequent offense under this section,
29 is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correction facility
30 for a period not to exceed three years.

**§60-6-9. Intoxication or drinking in public places; illegal possession of alcoholic liquor;
arrests by sheriffs or their deputies for violation in their presence; penalties.**

1 (a) A person may not:

2 (1) Appear in a public place in an intoxicated condition;

3 (2) Drink alcoholic liquor in a public place;

4 (3) Tender a drink of alcoholic liquor to another person in a public place, which such tender
5 shall include any person providing cups, glasses, ice, refrigeration, storage of alcoholic liquors,
6 any food or snacks, a lounge area or space for patrons to gather, any type of musical
7 entertainment, any type of exotic or other entertainment, or any such similar activity to another
8 person who is possessing or consuming alcoholic liquors in a business not licensed pursuant to
9 this chapter, especially in what is referred to as a “bring your own bottle”, “bring your own booze”,
10 or “BYOB” type business, where tendering a drink in this public place is unlawful as set forth in
11 this chapter and Article VI, §46 of the Constitution of the State of West Virginia;

12 (4) Possess alcoholic liquor in the amount in excess of 10 gallons, in containers not
13 bearing stamps or seals of the commissioner, without having first obtained written authority from
14 the commissioner therefor; or

15 (5) Possess any alcoholic liquor which was manufactured or acquired in violation of the
16 provisions of this chapter.

17 (b) Any law-enforcement officer may arrest without a warrant and take the following
18 actions against a person who, in his or her presence, violates subdivision (1) of subsection (a) of
19 this section: (1) If there is some nonintoxicated person who will accept responsibility for the
20 intoxicated person, the officer may issue the intoxicated person a citation specifying a date for
21 appearance before a judicial officer and release him or her to the custody of the individual
22 accepting responsibility: *Provided*, That the issuance of a citation shall be used whenever
23 feasible; (2) if it does not impose an undue burden on the officer, he or she may, after issuance
24 of the a citation, transport the individual to the individual's present residence or arrange for the
25 transportation; (3) if the individual is incapacitated or the alternatives provided in subdivisions (1)
26 and (2) of this subsection are not possible, the officer shall transport or arrange for transportation
27 to the appropriate judicial officer as defined by §27-11-17 of this code; or (4) if the individual is
28 incapacitated and, in the law-enforcement officer's judgment, is in need of acute medical attention,
29 that officer shall arrange for transportation by ambulance or otherwise to a hospital emergency
30 room. The officer shall accompany the individual until he or she is discharged from the emergency
31 room or admitted to the hospital. If the individual is released from the emergency room, the officer
32 may proceed as described in subdivisions (1), (2) and (3) of this subsection. If the individual is
33 admitted to the hospital, the officer shall issue a citation to the individual specifying a date for
34 appearance before a judicial officer.

35 (c) Upon presentment before the proper judicial officer, the law-enforcement officer serves
36 as the chief complaining witness. The judicial officer shall determine if there is probative evidence
37 that the individual may be guilty of the charge of public intoxication. If such evidence is not
38 presented, the charge shall be dismissed and the individual released. If sufficient evidence is
39 presented, the judicial officer shall issue a warrant and establish bail or issue a summons to the
40 individual. Once a warrant or summons has been issued, the following actions may be taken:

- 41 (1) If the individual is no longer incapacitated, he or she may be released;
- 42 (2) If the individual is still incapacitated but a nonintoxicated person is available to accept

43 responsibility for him or her, he or she may be released to the responsible person; or

44 (3) If the individual is still incapacitated and no responsible person is available, the judicial
45 officer shall proceed under §27-5-1 *et seq.* and §27-6a-1 *et seq.* of this code.

46 (d) Any law-enforcement officer may arrest and hold in custody, without a warrant, until
47 complaint may be made before a judicial officer and a warrant or summons issued, any person
48 who in the presence of the law-enforcement officer violates any one or more of subdivisions (1)
49 through (6), subsection (a) of this section: *Provided*, That the law-enforcement officer may use
50 reasonable force to prevent harm to himself or herself, the individual arrested or others in carrying
51 out the provisions of this section.

52 (e) Any person who violates subdivision (1), subsection (a) of this section is guilty of a
53 misdemeanor and, upon conviction thereof, shall be sentenced by a judicial officer in accordance
54 with the following options:

55 (1) Upon first offense, a fine of not less than \$5 nor more than \$100. If the individual, prior
56 to conviction, agrees to voluntarily attend an alcohol education program of not more than six hours
57 duration at the nearest community mental health -- mental retardation center, the judicial officer
58 may delay sentencing until the program is completed and upon completion may dismiss the
59 charges;

60 (2) Upon conviction for a second offense, a fine of not less than \$5 nor more than \$100
61 and not more than 60 days in jail or completion of not less than five hours of alcoholism counseling
62 at the nearest community mental health -- mental retardation center;

63 (3) Upon third and subsequent convictions, a fine of not less than \$5 nor more than \$100
64 and not less than five nor more than 60 days in jail or a fine of not less than \$5 nor more than
65 \$100 and completion of not less than five hours of alcoholism counseling at the nearest
66 community mental health -- mental retardation center: *Provided*, That three convictions for public
67 intoxication within the preceding six months is considered evidence of alcoholism. For the
68 educational counseling programs described in this subsection the community mental health --

69 mental retardation center may charge each participant its usual and customary fee and shall
70 certify in writing to the referring judicial officer the completion or failure to complete the prescribed
71 program for each individual.

72 (f) A person charged with a violation of subdivision (1), subsection (a) of this section who
73 is an alcoholic shall be found not guilty by reason of addiction and proper disposition made
74 pursuant to §27-5-1 *et seq.* and §27-6a-1 *et seq.* of this code.

75 (g) Any person who violates subdivision (2), subsection (a) of this section is guilty of a
76 misdemeanor and, upon conviction thereof, shall be fined not less than \$5 nor more than \$100;
77 and upon a second or subsequent conviction thereof, shall be fined not less than \$5 nor more
78 than \$100, or confined in jail not more than 60 days, or both.

79 (h) Any person who violates subdivision (3), subsection (a) of this section is guilty of a
80 misdemeanor and, upon conviction thereof, shall be fined not less than \$5 nor more than \$100,
81 or confined in jail not more than 60 days, or both.

82 (i) Any person who violates subdivision (4) or (5), subsection (a) of this section is guilty of
83 a misdemeanor and, upon his or her first conviction, shall be fined not less than \$100 nor more
84 than \$500; and upon conviction of second or subsequent offense, he or she is guilty of a felony
85 and, shall be confined in a state correctional facility for a period of not less than one year nor more
86 than three years.

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-3. Sale of alcoholic liquors and nonintoxicating beer by licensee authorized.

1 Notwithstanding any other provisions of this code to the contrary, licensees are hereby
2 authorized to sell and serve alcoholic liquors by the drink, other than in sealed packages, which
3 includes no bottle sales to patrons, for consumption on the premises of the licensees, to their
4 members and their guests in accordance with the provisions of this article, the regulations and as
5 authorized in §60-6-8 of this code. The licensees may keep and maintain on their premises a
6 supply of those alcoholic liquors in such quantities as may be appropriate for the conduct of

7 operations thereof.

§60-7-4. Application for license; information required; verification; application to be accompanied by fees; bond; college fraternities and sororities ineligible for license; racial discrimination by applicants prohibited.

1 (a) Application for a license to operate a private club shall be made on such form as may
2 be prescribed by the commissioner and shall include:

3 (1) The name of the applicant;

4 (2) If the applicant is an unincorporated association, the names and addresses of the
5 members of its governing board;

6 (3) If the applicant is a corporation, the names and addresses of its officers and directors;

7 (4) The place at which the applicant will conduct its operations and whether the same is
8 owned or leased by the applicant;

9 (5) The number of members of the applicant;

10 (6) The name or names of any national organizations with which applicant is affiliated and
11 the nature of such affiliation;

12 (7) The size and nature of the dining and kitchen facilities operated by applicant; and

13 (8) Such other information as the commissioner may reasonably require which shall
14 include, but not be limited to the criminal records, if any, of each member of the applicant's
15 governing board and/or its officers and directors who have been convicted of a felony or a crime
16 involving moral turpitude, and the true ownership information of the applicant and whether the
17 applicant has made any false statements, has made any material misrepresentations, involves
18 hidden ownership, or involves persons with an undisclosed pecuniary interest.

19 (b) The application shall be verified by each member of the governing board of the
20 applicant if an unincorporated association or, if the applicant is a corporation, by each of its officers
21 and all members of its board of directors. The application shall be accompanied by the license
22 fee hereinafter prescribed and by a bond of the applicant in the penal sum of \$5,000 with a

23 corporate surety authorized to transact business in the State of West Virginia, payable to the State
24 of West Virginia, which bond shall be conditioned on the payment of all fees herein prescribed
25 and on the faithful performance of and compliance with the provisions of this article.

26 (c) Under no circumstance may any college fraternity or sorority be issued a license to
27 operate a private club.

28 (d) No license to operate a private club will be issued to applicants who discriminate
29 against any person or group of persons because of race or color of such person or group of
30 persons.

§60-7-5. Investigation by commissioner; issuance or refusal of license; special requirements for clubs at parks and airports; form of license; license valid at one location only; expiration and renewal; transferability.

1 (a) Upon receipt of ~~the~~ a completed application referred to in §60-7-4 of this code, together
2 with the accompanying fee and bond, the commissioner shall conduct an investigation to
3 determine the accuracy of the matters contained in such completed application and whether
4 applicant is a bona fide private club of good reputation in the community in which it shall operate.
5 For the purpose of conducting such investigation, the commissioner may withhold the granting or
6 refusal to grant such license for a period not to exceed 30 days or until the applicant has
7 completed the conditions set forth in §60-7-4(a) of this code. If it shall appear that such applicant
8 is a bona fide private club, of good reputation in the community in which it shall operate and that
9 there is no false statement, no material misrepresentations, no hidden ownership, no persons
10 with an undisclosed pecuniary interest contained in such application along with no other
11 omissions or failures by the applicant to complete the application, as determined by the
12 commissioner, the commissioner shall issue a license authorizing the applicant to sell alcoholic
13 liquors as provided in §60-7-3 of this code, and otherwise shall refuse to issue such license,
14 except that in the case of an application by a corporation or association to operate a private club
15 in connection with:

16 (1) A state park, the Director of the Department of Natural Resources must grant his or
17 her approval before the license can be issued; or

18 (2) A county or municipal park, or an airport, the authority governing the park or airport
19 must grant its approval before the license can be issued.

20 A license may not be issued for a private club in any state park unless a dining facility
21 comparable to the dining facility for the proposed private club will be available to serve meals to
22 the general public. A license may not be issued for a private club in any county or municipal park,
23 or an airport, unless a dining facility comparable to the dining facility for the proposed private club
24 will be available to serve meals to the general public.

25 (b) Upon refusal to issue such license the commissioner shall make and enter an order
26 denying such application, which denial and refusal shall be final unless a hearing is requested in
27 accordance with the provisions of §60-7-13 of this code. When such refusal or denial becomes
28 final the commissioner shall forthwith refund to the applicant his or her fees and bond
29 accompanying the application.

30 (c) Such license shall be of such form and design as the commissioner may prescribe by
31 reasonable rule or regulation, and shall authorize the licensee to sell alcoholic liquors at only one
32 location.

33 (d) Such license shall expire on June 30 next following the date of issue and may be
34 renewed upon the same showing as required for the issuance of the initial license, together with
35 the payment of fees and filing of the bond as required by this article.

36 (e) A license issued under the provisions of this article may not be transferable

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

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

3 (1) Sell, ~~or offer for sale~~ or serve any alcoholic liquors other than from the original package,
4 ~~or container,~~ or by the drink, except as authorized in §60-6-8(5) of this code;

5 (2) Authorize or permit any disturbance of the peace; obscene, lewd, immoral or improper
6 entertainment, conduct or practice, gambling or any slot machine, multiple coin console machine,
7 multiple coin console slot machine, or device in the nature of a slot machine;

8 (3) Sell, give away or permit the sale of, gift to or the procurement of any nonintoxicating
9 beer, wine or alcoholic liquors for or to, or permit the consumption of nonintoxicating beer, wine,
10 or alcoholic liquors on the licensee's premises, by any person less than 21 years of age;

11 (4) Sell, give away or permit the sale of, gift to or the procurement of any nonintoxicating
12 beer, wine, or alcoholic liquors, for or to any person known to be deemed legally incompetent, or
13 for or to any person who is physically incapacitated due to consumption of nonintoxicating beer,
14 wine or alcoholic liquor or the use of drugs;

15 (5) Sell, give or dispense nonintoxicating beer, wine, or alcoholic liquors in or on any
16 licensed premises or in any rooms directly connected therewith, between the hours of 3 o'clock
17 a.m. and 1 o'clock p.m., or, between the hours of 3 o'clock a.m. and 10 o'clock a.m. in any county
18 upon approval as provided for in §7-1-3pp of this code, or for any home rule city that properly
19 approved hours of operation with the approval of the home rule board and consistent with §7-1-
20 3pp of this code, on any Sunday;

21 (6) Permit the consumption by, or serve to, on the licensed premises any nonintoxicating
22 beer, wine, or alcoholic liquors, covered by this article, to any person who is less than 21 years of
23 age;

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

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

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

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

34 (B) Employ any person who is between the ages of 18 and 21 who is not directly
35 supervised by a person aged 21 or over in a position where the primary responsibility for such
36 employment is to sell, furnish, serve or give nonintoxicating beer, wine, or alcoholic liquors to any
37 person; or

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

39 (b) It is unlawful for any licensee to advertise in any news media or other means, outside
40 of the licensee's premises, the fact that alcoholic liquors may be purchased thereat.

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

ARTICLE 8. SALE OF WINES.

§60-8-3. Licenses; fees; general restrictions.

1 (a) No person may engage in business in the capacity of a winery, farm winery, supplier,
2 distributor, retailer, private wine bed and breakfast, private wine restaurant, private wine spa, or
3 wine specialty shop without first obtaining a license from the commissioner, nor shall a person
4 continue to engage in any activity after his or her license has expired, been suspended or revoked.
5 No person may be licensed simultaneously as a distributor and a retailer. No person, except for
6 a winery or farm winery, may be licensed simultaneously as a supplier and a retailer. No person
7 may be licensed simultaneously as a supplier and a private wine bed and breakfast, private wine
8 restaurant, or a private wine spa. No person may be licensed simultaneously as a distributor and
9 a private wine bed and breakfast, a private wine restaurant, or a private wine spa. No person may
10 be licensed simultaneously as a retailer and a private wine bed and breakfast, a private wine
11 restaurant, or a private wine spa.

12 (b) The commissioner shall collect an annual fee for licenses issued under this article as
13 follows:

14 (1) \$150 per year for a supplier's license;

15 (2) \$2,500 per year for a distributor's license and each separate warehouse or other facility
16 from which a distributor sells, transfers or delivers wine shall be separately licensed and there
17 shall be collected with respect to each location the annual license fee of \$2,500 as herein
18 provided;

19 (3) \$150 per year for a retailer's license;

20 (4) \$250 per year for a wine specialty shop license, in addition to any other licensing fees
21 paid by a winery or retailer holding a license, except for the amount of the license fee and the
22 restriction to sales of winery or farm winery wines, a winery, or farm winery acting as a wine
23 specialty shop retailer is subject to all other provisions of this article which are applicable to a wine
24 specialty shop retailer as defined in §60-8-2 of this code;

25 (5) \$150 per year for a wine tasting license;

26 (6) \$150 per year for a private wine bed and breakfast license and each separate bed and
27 breakfast from which a licensee sells wine shall be separately licensed and there shall be
28 collected with respect to each location the annual license fee of \$150 as herein provided;

29 (7) \$250 per year for a private wine restaurant license and each separate restaurant from
30 which a licensee sells wine shall be separately licensed and there shall be collected with respect
31 to each location the annual license fee of \$250 as herein provided;

32 (8) \$150 per year for a private wine spa license and each separate private wine spa from
33 which a licensee sells wine shall be separately licensed and there shall be collected with respect
34 to each location the annual license fee of \$150 as herein provided;

35 (9) \$150 per year for a wine sampling license issued for a wine specialty shop under
36 subsection (n) of this section;

37 (10) No fee shall be charged for a special one-day license under subsection (p) of this

38 section or for a heritage fair and festival license under subsection (q) of this section;

39 (11) \$150 per year for a direct shipper's license for a licensee who sells and ships only
40 wine and \$250 per for a direct shipper's license who ships and sells wine, nonfortified dessert
41 wine, port, sherry or Madeira wines; and

42 (12) \$300 per year for a multicapacity winery or farm winery license which shall enable the
43 holder to operate as a retailer, wine specialty shop, supplier and direct shipper without obtaining
44 an individual license for each capacity.

45 (c) The license period shall begin on July 1 of each year and end on June 30 of the
46 following year and if granted for a less period, the same shall be computed semiannually in
47 proportion to the remainder of the fiscal year.

48 (d) No retailer may be licensed as a private club as provided by §60-7-1 *et seq.*, except
49 as provided by subsection (k) of this section.

50 (e) No retailer may be licensed as a Class A retail dealer in nonintoxicating beer as
51 provided by §11-16-1 *et seq.* of this code: *Provided*, That a delicatessen, a caterer or party supply
52 store which is a grocery store as defined in section two of this article and which is licensed as a
53 Class A retail dealer in nonintoxicating beer may be a retailer under this article: *Provided*,
54 *however*, That any delicatessen, caterer or party supply store licensed in both capacities must
55 maintain average monthly sales exclusive of sales of wine and nonintoxicating beer which exceed
56 the average monthly sales of nonintoxicating beer.

57 (f) A wine specialty shop under this article may also hold a wine tasting license authorizing
58 the retailer to serve complimentary samples of wine in moderate quantities for tasting. Such wine
59 specialty shop shall organize a wine taster's club, which has at least 50 duly elected or approved
60 dues-paying members in good standing. Such club shall meet on the wine specialty shop's
61 premises not more than one time per week and shall either meet at a time when the premises are
62 closed to the general public, or shall meet in a separate segregated facility on the premises to
63 which the general public is not admitted. Attendance at tastings shall be limited to duly elected or

64 approved dues-paying members and their guests.

65 (g) A retailer who has more than one place of retail business shall obtain a license for
66 each separate retail establishment. A retailer's license may be issued only to the proprietor or
67 owner of a bona fide grocery store or wine specialty shop.

68 (h)(A) The commissioner may issue a ~~special~~ license for the retail sale of wine at any
69 festival or fair which is endorsed or sponsored by the governing body of a municipality or a county
70 commission. Such ~~special~~ license shall be issued for a term of no longer than 10 consecutive
71 days and the fee therefor shall be \$250 regardless of the term of the license ~~unless the applicant~~
72 ~~is the manufacturer of said wine on a winery or a farm winery as defined in section five-a, article~~
73 ~~one of this chapter, in which event the fee shall be \$50 if the event is held on the premises of the~~
74 ~~winery or farm winery.~~ The application for the license shall contain information as the
75 commissioner may reasonably require and shall be submitted to the commissioner at least 30
76 days prior to the first day when wine is to be sold at the festival or fair.

77 (B) Notwithstanding subdivision (h)(A) of this section, if the applicant for the festival or fair
78 license is the manufacturer of said wine, a winery or a farm winery as defined in §60-1-5a of this
79 code, and the event is located on the premises of a winery or a farm winery then the license fee
80 shall be \$50.

81 (C) A licensed winery or a farm winery, licensed under this subsection who has the festival
82 or fair licensee's written authorization and approval from the commissioner, may, in addition to or
83 in conjunction with the festival and fair licensee, exhibit, conduct complimentary tastings or sell
84 samples not to exceed a reasonable serving of three, one fluid ounces, and may sell wine samples
85 tastings or samples per patron, for consumption on the premises during the operation of a festival
86 or fair only; and may sell wine for off-premises consumption: Provided, That for licensed wineries
87 or farm wineries at a licensed festival or fair the tastings, samples and off-premises sales shall
88 occur under the hours of operation as required in this article, except that on Sunday, tastings,
89 samples and off-premises sales are unlawful between the hours of 2:00 a. m. and 10:00 a. m.

90 (D) A special festival or fair license for a license fee of \$250 may be issued other than to
91 a winery or a farm winery, but may be issued to a “wine club” as defined herein below. The festival
92 or fair committee or the governing body shall designate a person to organize a club under a name
93 which includes the name of the festival or fair and the words “wine club”. The license shall be
94 issued in the name of the wine club. A licensee may not commence the sale of wine as provided
95 in this subsection until the wine club has at least 50 dues-paying members who have been
96 enrolled, and to whom membership cards have been issued. Thereafter, new members may be
97 enrolled and issued membership cards at any time during the period for which the license is
98 issued. A wine club licensed under the provisions of this subsection may sell wine only to its
99 members, and in portions not to exceed eight ounces per serving. The sales shall take place on
100 premises or in an area cordoned or segregated so as to be closed to the general public, and the
101 general public shall not be admitted to the premises or area. A wine club licensee under the
102 provisions of this subsection shall be authorized to serve complimentary samples of wine in
103 moderate quantities for tasting. Such a wine club shall not be permitted to make wine purchases
104 from a direct shipper where such wine may be consumed on the licensed premises of any Class
105 A private wine retail license or private club, and further shall be subject to the penalties in this
106 article.

107 (E) A license licensed winery or farm winery approved to attend a festival or fair license
108 issued under the provisions of this ~~subsection~~ section and the licensee holding the license, or the
109 licensed winery or farm winery approved to attend a licensed festival or fair, shall be subject to all
110 other provisions of this article and the rules and orders of the commissioner relating to the special
111 license: *Provided*, That the commissioner may by rule, regulation, or order provide for certain
112 waivers or exceptions with respect to the provisions, rules, regulations or orders as the
113 circumstances of each festival or fair may require, including, without limitation, the right to revoke
114 or suspend any license issued pursuant to this section prior to any notice or hearing
115 notwithstanding the provisions §60-8-27 and §60-8-28 of this code: *Provided, however*, That

116 under no circumstances shall the provisions of §60-8-20(c) or §60-8-20(d) of this code be waived
117 nor shall any exception be granted with respect thereto.

118 (F) A license issued under the provisions of this ~~subsection~~ section and the licensee
119 holding the license is not subject to the provisions of subsection (g) of this section.

120 (i) (A) The commissioner may issue a special license for the retail sale of wine in a
121 professional baseball stadium. A license to sell wine granted pursuant to this subsection entitles
122 the licensee to sell and serve wine, for consumption in a professional baseball stadium. For the
123 purpose of this subsection, "professional baseball stadium" means a facility constructed primarily
124 for the use of a major or minor league baseball franchisee affiliated with the National Association
125 of Professional Baseball Leagues, Inc., or its successor, and used as a major or minor league
126 baseball park. Any special license issued pursuant to this subsection shall be for a term beginning
127 on the date of issuance and ending on the next following June 30, and its fee is \$250 regardless
128 of the length of the term of the license. The application for the special license shall contain
129 information as the commissioner may reasonably require and must be submitted to the
130 commissioner at least 30 days prior to the first day when wine is to be sold at the professional
131 baseball stadium. The special license may be issued in the name of the baseball franchisee or
132 the name of the primary food and beverage vendor under contract with the baseball franchisee.
133 These sales must take place within the confines of the professional baseball stadium, provided
134 that the exterior of the area where wine sales may occur are surrounded by a fence or other
135 barrier prohibiting entry except upon the franchisee's express permission, and under the
136 conditions and restrictions established by the franchisee, so that the wine sales area is closed to
137 free and unrestricted entry by the general public.

138 (B) A license issued under this subsection and the licensee holding the license is subject
139 to all other provisions of this article and the rules and orders of the commissioner relating to the
140 special license: *Provided*, That the commissioner may by rule or order grant certain waivers or
141 exceptions to those rules or orders as the circumstances of each professional baseball stadium

142 may require, including, without limitation, the right to revoke or suspend any license issued
143 pursuant to this section prior to any notice or hearing notwithstanding §60-8-27 and §60-8-28 of
144 this code: *Provided, however,* That under no circumstances may §60-8-20(c) or §60-8-20(d) of
145 this code be waived nor shall any exception be granted concerning those subsections.

146 (C) The commissioner has the authority to propose rules for legislative approval in
147 accordance with §29a-3-1 *et seq.*, of this code to implement this subsection.

148 (j) A license to sell wine granted to a private wine bed and breakfast, private wine
149 restaurant, private wine spa, or a private club under the provisions of this article entitles the
150 operator to sell and serve wine, for consumption on the premises of the licensee, when the sale
151 accompanies the serving of food or a meal to its members and their guests in accordance with
152 the provisions of this article: *Provided,* That a licensed private wine bed and breakfast, private
153 wine restaurant, private wine spa, or a private club may permit a person over 21 years of age to
154 purchase wine, consume wine and recork or reseal, using a tamper resistant cork or seal, up to
155 two separate bottles of unconsumed wine in conjunction with serving of food or a meal to its
156 members and their guests in accordance with the provisions of this article and in accordance with
157 regulations promulgated by the commissioner for the purpose of consumption of said wine off
158 premises: *Provided, however,* That for this article, food or a meal provided by the private licensee
159 means that the total food purchase, excluding beverage purchases, taxes, gratuity or other fees
160 is at least \$15: *Provided further,* That a licensed private wine restaurant or a private club may
161 offer for sale for consumption off the premises, sealed bottles of wine to its customers provided
162 that no more than one bottle is sold per each person over 21 years of age, as verified by the
163 private wine restaurant or private club, for consumption off the premises. Such licensees are
164 authorized to keep and maintain on their premises a supply of wine in quantities as may be
165 appropriate for the conduct of operations thereof. Any sale of wine so made shall be subject to all
166 restrictions set forth in §60-8-20 of this code. A private wine restaurant may also be licensed as
167 a Class A retail dealer in nonintoxicating beer as provided by §11-16-1 *et seq.* of this code.

168 (k) With respect to subsections (h), (i), (j), (o) and (p) of this section, the commissioner
169 shall promulgate legislative rules in accordance with the provisions of §29A-1-1 *et seq.* of this
170 code with regard to the form of the applications, the suitability of both the applicant and location
171 of the licensed premises and other legislative rules deemed necessary to carry the provisions of
172 the subsections into effect.

173 (l) The commissioner shall promulgate legislative rules in accordance with the provisions
174 of §29A-1-1 *et seq.* of this code to allow restaurants to serve wine with meals, and to sell wine by
175 the bottle for off-premises consumption as provided in subsection (j) of this section. Each
176 restaurant so licensed shall be charged an additional \$100 per year fee.

177 (m) The commissioner shall establish guidelines to permit wines to be sold in all stores
178 licensed for retail sales.

179 (n) Wineries and farm wineries may advertise off premises as provided in §17-22-7 of this
180 code.

181 (o) A wine specialty shop under this article may also hold a wine sampling license
182 authorizing the wine specialty shop to conduct special wine sampling events at a licensed wine
183 specialty shop location during regular hours of business. The wine specialty shop may serve up
184 to three complimentary samples of wine, consisting of no more than one fluid ounce each, to any
185 one consumer in one day. Persons serving the complimentary samples must be 21 years of age
186 and an authorized representative of the licensed wine specialty shop, winery, farm winery or a
187 representative of a distributor or registered supplier. Distributor and supplier representatives
188 attending wine sampling events must be registered with the commissioner. No licensee, employee
189 or representative may furnish, give, sell, or serve complimentary samples of wine to any person
190 less than 21 years of age or to a person who is physically incapacitated due to the consumption
191 of alcoholic liquor or the use of drugs. The wine specialty shop shall notify and secure permission
192 from the commissioner for all wine sampling events one month prior to the event. Wine sampling
193 events may not exceed six hours per calendar day. Licensees must purchase all wines used

194 during these events from a licensed farm winery or a licensed distributor.

195 (p) The commissioner may issue special one-day licenses to duly organized, nonprofit
196 corporations and associations allowing the sale and serving of wine, and may, if applicable, also
197 allow the charitable auctioning of certain sealed bottles of wine for off-premises consumption only,
198 when raising money for athletic, charitable, educational or religious purposes. Auction or
199 auctioning, for this subsection, shall mean any silent, physical act or verbal bid auction, but shall
200 not include any such action in violation of §47-20-10, §47-20-11 or §61-10-1 et seq. of this code.

201 The license application shall contain information as the commissioner may reasonably require
202 and shall be submitted to the commissioner at least 30 days prior to the event. Wines used during
203 these events may be donated by or purchased from a licensed retailer, a distributor or a farm
204 winery. A licensed farm winery that: is authorized in writing by a representative of the duly
205 organized, nonprofit corporation and association which has obtained the one-day license; is in
206 good standing with the state; and obtains the commissioner's approval prior to the one-day license
207 event may, in conjunction with the one-day licensee, exhibit; conduct complimentary tastings or
208 sell samples not to exceed a reasonable serving of three, one fluid ounces, tastings or samples
209 per patron, for consumption on the premises during the operation of the one-day license event;
210 and may sell certain sealed wine bottles manufactured by the licensed farm winery for off-
211 premises consumption: *Provided*, That for a licensed farm winery at a licensed one-day event the
212 tastings, samples and off-premises sales shall occur under the hours of operation as required in
213 this article, except on Sunday, tastings, samples and off-premises sales are unlawful between the
214 hours of 2:00 a. m. and 10:00 a. m., from the one-day licensee's submitted floor plan for the event
215 subject to the requirements in the code and rules. Under no circumstances may the ~~provision~~
216 provisions of §60-8-20(c) or §60-8-20(f) of this code be waived nor may any exception be granted
217 with respect thereto.

218 (q) The commissioner may issue special licenses to heritage fairs and festivals allowing
219 the sale, serving, and sampling of wine from a licensed farm winery. The license application shall

220 contain information required by the commissioner and shall be submitted to the commissioner at
221 least 30 days prior to the event. Wines used during these events may be donated by or purchased
222 from a licensed farm winery. Under no circumstances may the provision of §60-8-20(c) of this
223 code be waived nor may any exception be granted with respect thereto. The commissioner shall
224 propose rules for legislative approval in accordance with §29A-3-9a of this code to implement the
225 provisions of this subsection.

226 (r)(1) The commissioner may issue a special license for the retail sale of wine in a college
227 stadium. A license to sell wine granted pursuant to this subsection entitles the licensee to sell and
228 serve wine for consumption in a college stadium. For the purpose of this subsection, "college
229 stadium" means a facility constructed primarily for the use of a Division I college that is a member
230 of the National Collegiate Athletic Association, or its successor, and used as a football, basketball,
231 baseball, soccer or other Division I or II sports stadium. A special license issued pursuant to this
232 subsection shall be for a term beginning on the date of its issuance and ending on the next
233 following June 30, and its fee is \$250 regardless of the length of the term of the license. The
234 application for the special license shall contain information as the commissioner may reasonably
235 require and must be submitted to the commissioner at least 30 days prior to the first day when
236 wine is to be sold. The special license may be issued in the name of the National Collegiate
237 Athletic Association Division I or II college or university or the name of the primary food and
238 beverage vendor under contract with that college or university. These sales must take place within
239 the confines of the college stadium: *Provided*, That the exterior of the area where wine sales may
240 occur are surrounded by a fence or other barrier prohibiting entry except upon the college or
241 university's express permission, and under the conditions and restrictions established by the
242 college or university, so that the wine sales area is closed to free and unrestricted entry by the
243 general public.

244 (2) A license issued under this subsection and the licensee are subject to the other
245 requirements of this article and the rules and orders of the commissioner relating to the special

246 license: *Provided*, That the commissioner may by rule or order grant certain waivers or exceptions
 247 to those rules or orders as the circumstances of each the college stadium may require, including,
 248 without limitation, the right to revoke or immediately suspend any license issued pursuant to this
 249 section prior to any notice or hearing notwithstanding §60-8-27 and §60-8-28 of this code:
 250 *Provided, however*, That subsection §60-8-20(c) or (d) of this code may not be waived, nor shall
 251 any exception be granted concerning those subsections.

252 (3) The commissioner may propose rules for legislative approval in accordance with §29a-
 253 3-1 *et seq.*, of this code to implement this subsection.

§60-8-20. Unlawful acts generally.

1 It shall be unlawful:

2 (a) For a supplier or distributor to sell or deliver wine purchased or acquired from any
 3 source other than a person registered under the provisions §60-8-6 of this code or for a retailer
 4 to sell or deliver wine purchased or acquired from any source other than a licensed distributor or
 5 a farm winery as defined in §60-1-5a of this code;

6 (b) Unless otherwise specifically provided by the provisions of this article, for a licensee
 7 under this article to acquire, transport, possess for sale, ~~or~~ sell, or serve wine other than in the
 8 original package and by the drink, except as authorized in §60-6-8(5) of this code;

9 (c) For a licensee, his or her servants, agents or employees to sell, furnish or give wine to
 10 any person less than 21 years of age, or to a mental incompetent or person who is physically
 11 incapacitated due to the consumption of alcoholic liquor or the use of drugs: *Provided*, That the
 12 provisions §60-3A-25a of this code shall apply to sales of wine;

13 (d) For a licensee to permit a person who is less than 18 years of age to sell, furnish, serve
 14 or give wine to any person;

15 (e) For a supplier or a distributor to sell or deliver any brand of wine purchased or acquired
 16 from any source other than the primary source of supply of the wine which granted the distributor
 17 the right to sell the brand at wholesale. For the purposes of this article, “primary source of supply”

18 means the vintner of the wine, the importer of a foreign wine who imports the wine into the United
19 States, the owner of a wine at the time it becomes a marketable product, the bottler of a wine or
20 an agent specifically authorized by any of the above-enumerated persons to make a sale of the
21 wine to a West Virginia distributor: *Provided*, That no retailer shall sell or deliver wine purchased
22 or acquired from any source other than a distributor or farm winery licensed in this state: *Provided*,
23 *however*, That nothing herein is considered to prohibit sales of convenience between distributors
24 licensed in this state wherein one distributor sells, transfers or delivers to another distributor a
25 particular brand or brands for sale at wholesale, of which brand or brands the other distributor has
26 been authorized by a licensed supplier to distribute. The commissioner shall promulgate rules
27 necessary to carry out the provision of this subsection;

28 (f) For a person to violate any reasonable rule promulgated by the commissioner under
29 this article;

30 (g) Nothing in this article, nor any rule or regulation of the commissioner, shall prevent or
31 be considered to prohibit any licensee from employing any person who is at least 18 years of age
32 to serve in any licensee's lawful employment, including the sale, service or delivery of wine under
33 the provisions of this article. With the prior approval of the commissioner, a licensee whose
34 principal business is the sale of food or consumer goods or the providing of recreational activities,
35 including, but not limited to, nationally franchised fast food outlets, family-oriented restaurants,
36 bowling alleys, drug stores, discount stores, grocery stores and convenience stores, may employ
37 persons who are less than 18 years of age but at least 16 years of age: *Provided*, That the
38 person's duties may not include the sale or delivery of nonintoxicating beer or alcoholic liquors:
39 *Provided, however*, That the authorization to employ persons under the age of 18 years shall be
40 clearly indicated on the licensee's license.

NOTE: The purpose of this bill is to modernize certain alcohol laws and clarify certain practices that are permitted and other practices that are prohibited.

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