

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**ENGROSSED**

## **House Bill 4524**

BY DELEGATES WESTFALL, HARTMAN, SPONAUGLE,  
BARRETT, PHILLIPS, STORCH, FLUHARTY AND STEELE

[Introduced January 24, 2020; Referred to the  
Committee on the Judiciary.]



1 A BILL to amend and reenact §60-5-1, §60-5-2, §60-5-3, §60-5-4, §60-5-5, §60-5-6 and §60-5-8  
2 of the Code of West Virginia, 1931, as amended, all relating to making the entire state  
3 “wet” or permitting the sale of alcoholic liquors for off-premises consumption; providing a  
4 county option to vote to go “dry” or prohibit the sale of alcoholic liquors for off-premises  
5 consumption; and permitting an exception.

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

**ARTICLE 5. LOCAL OPTION ELECTIONS.**

**§60-5-1. Election in county, magisterial district or municipality.**

1 Effective July 1, 2020 the entire state shall be considered “wet” or permitting the sale of  
2 alcoholic liquors for off-premises consumption. A county is permitted, as set forth in this article, to  
3 vote to go “dry” or not permitting the sale of alcoholic liquors for off-premises consumption:  
4 Provided, That if that county votes to go “dry” the election does not affect any magisterial district  
5 or municipality that has voted on or before January 1, 2020 to be “wet.” A county magisterial  
6 district or any municipality may, in an election held especially for the purpose, determine whether  
7 the sale of alcoholic liquors for ~~beverage purposes shall be permitted~~ off-premises consumption  
8 be prohibited within that county. ~~magisterial district or municipality~~

9 On or before June 1, 2020, the Commissioner of the Alcohol Beverage Control  
10 Administration shall send a certified letter to all political subdivisions which would be affected by  
11 the provisions of this bill. Such entities may stay “dry”, that is, not permitting the sale of alcoholic  
12 liquors for off-premises consumption, if by August 1, 2020, a majority of the members of the  
13 respective county commission or city or town council shall vote to remain dry, and send a certified  
14 letter to the Commissioner of the Alcohol Beverage Control Administration, noting the results of  
15 such vote.

16 A local option election shall may not be held within 60 days of a general or municipal  
17 election.

**§60-5-2. Election called on petition of five percent of qualified voters.**

1           The county commission ~~or the governing body of the municipality, as the case may be~~  
2 shall call a special "local option election" upon the filing of a petition signed by not less than five  
3 percent of the qualified voters within the county. ~~a magisterial district or municipality~~

**§60-5-3. Form of petition.**

1           The petition shall be in the following form:

2           Petition for Local Option Election

3           We, the undersigned legally qualified voters, resident within the county ~~(magisterial~~  
4 ~~district) (municipality)~~ of \_\_\_\_\_, do hereby petition that a special election be held  
5 within the county ~~(city, town)~~ of \_\_\_\_\_ on the \_\_\_\_\_ day of  
6 \_\_\_\_\_, 19\_\_\_\_, upon the following question:

7           Shall the sale of alcoholic beverages under the West Virginia Alcohol Beverage Control  
8 Commissioner be ~~permitted~~ prohibited in \_\_\_\_\_?

9           Name Address Date

10          (Post office or street and number)

**§60-5-4. When election is to be held.**

1           Elections must be held during the typical Primary or General elections; and shall not be  
2 held by a special election.

**§60-5-5. Form of ballot.**

1           On the ballot shall be printed the following:

2           Shall the sale of alcoholic ~~beverages~~ liquors for off-premises consumption under the West  
3 Virginia ~~liquor control commission be permitted~~ Alcohol Beverage Control Commissioner be  
4 prohibited in ..... County?

5            Yes.

6            No.

7           (Place a cross mark in the square opposite your choice.)

**§60-5-6. How election conducted and results certified.**

1           The ballots shall be counted, returns made and canvassed as in general elections, and  
2 the results certified by the commissioners of election to the county ~~court~~ commission of the county.  
3 ~~or the governing body of the municipality, as the case may be.~~ The county ~~court~~ or governing  
4 ~~body~~ commission shall without delay certify the result of the election to the ~~commission~~ Alcohol  
5 Beverage Control Commissioner.

**§60-5-8. When another election may be held.**

1           When a "local option election" has been held in a county ~~a magisterial district or~~  
2 ~~municipality~~ another such election shall may not be held for a period of two years. ~~except that an~~  
3 ~~election may be held within a municipality without regard to an election held in or the time limit~~  
4 ~~applicable to the county within which the municipality, or a part thereof, is located~~

NOTE: The purpose of this bill is to make the entire state "wet" or permit the sale of alcoholic liquors (liquor, wine and beer over 15 percent abv) for off-premises consumption throughout the entire state. The bill does provide a county option if a county would want to vote to go dry or prohibit the sale of alcoholic liquors for off-premises consumption, but also permits an exception. There are currently 13 "dry" areas in the state, some as big as county, town or even tax districts.

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