

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **House Bill 4698**

BY DELEGATES PUSHKIN, HOWELL, ESTEP-BURTON,  
WALKER, MCGEEHAN, LAVENDER-BOWE AND PYLES

[Introduced February 05, 2020; Referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §60-4-3a of the Code of West Virginia, 1931, as amended; and to  
2 amend and reenact §60-7-11 of said code, all relating to allowing a bar to purchase liquor  
3 from a distillery or a mini-distillery if it is within 10 miles of the distillery or mini-distillery  
4 and the liquor was made at the distillery or mini-distillery.

#### ARTICLE 4. LICENSES.

##### §60-4-3a. Distillery and mini-distillery license to manufacture and sell.

1 (a) *Sales of liquor.* — (1) An operator of a distillery or a mini-distillery may offer liquor made  
2 at the distillery or mini-distillery for retail sale to:

3 (A) Customers from the distillery or the mini-distillery for consumption off premises only;  
4 and

5 (B) A licensee under §60-7-1 et seq. of this code when the licensed operation is within 10  
6 miles of the distillery or the mini-distillery.

7 (2) Except for free complimentary samples offered pursuant to §60-6-1 of this code,  
8 customers are prohibited from consuming any liquor on the premises of the distillery or the mini-  
9 distillery: *Provided*, That a licensed distillery or mini-distillery may offer complimentary samples  
10 per this subsection of alcoholic liquors manufactured by that licensed distillery or mini-distillery for  
11 consumption on the premises only on Sundays beginning at 10:00 a.m. in any county in which  
12 the same has been approved as provided for in §7-1-3pp of this code.

13 (b) *Retail sales.* — Every licensed distillery or mini-distillery shall comply with the  
14 provisions of §60-3A-9, §60-3A-11, §60-3A-13, §60-3A-16, §60-3A-17, §60-3A-18, §60-3A-19,  
15 §60-3A-22, §60-3A-23, §60-3A-24, §60-3A-25, and §60-3A-26 and the provisions of §60-3-1 *et*  
16 *seq.* and §60-4-1 *et seq.* of this code applicable to liquor retailers and distillers.

17 (c) *Payment of taxes and fees.* — The distillery or mini-distillery shall pay all taxes and  
18 fees required of licensed retailers and meet applicable licensing provisions as required by this  
19 chapter and by rule of the commissioner, except for payments of the wholesale markup  
20 percentage and the handling fee provided by rule of the commissioner: *Provided*, That all liquor

21 for sale to customers from the distillery or the mini-distillery for off-premises consumption shall be  
 22 and licensees under §60-7-1 et seq. of this code, as allowed by subdivision (1), subsection (a) of  
 23 this section, are subject ~~of~~ to a five percent wholesale markup fee and an 80 cents per case  
 24 bailment fee to be paid to the commissioner: *Provided, however,* That no liquor sold by the  
 25 distillery or mini-distillery shall be priced less than the price set by the commissioner pursuant to  
 26 §60-3A-17 of this code.

27 (d) *Payments to market zone retailers.* — Each distillery or mini-distillery shall submit to  
 28 the commissioner two percent of the gross sales price of each retail liquor sale for the value of all  
 29 sales at the distillery or the mini-distillery each month. This collection shall be distributed by the  
 30 commissioner, at least quarterly, to each market zone retailer located in the distillery or mini-  
 31 distillery's market zone, proportionate to each market zone retailer's annual gross prior years  
 32 pretax value sales. The maximum amount of market zone payments that a distillery or mini-  
 33 distillery shall be required to submit to the commissioner is \$15,000 per annum.

34 (e) *Limitations on licensees.* — No distillery or mini-distillery may sell more than 3,000  
 35 gallons of product at the distillery or mini-distillery location the initial two years of licensure. The  
 36 distillery or mini-distillery may increase sales at the distillery or mini-distillery location by 2,000  
 37 gallons following the initial 24-month period of licensure and may increase sales at the distillery  
 38 or mini-distillery location each subsequent 24-month period by 2,000 gallons, not to exceed  
 39 10,000 gallons a year of total sales at the distillery or mini-distillery location. No licensed mini-  
 40 distillery may produce more than 50,000 gallons per calendar year at the mini-distillery location.  
 41 No more than one distillery or mini-distillery license may be issued to a single person or entity and  
 42 no person may hold both a distillery and a mini-distillery license.

## **ARTICLE 7. LICENSES TO PRIVATE CLUBS.**

### **§60-7-11. Licensee must purchase alcoholic liquors from or through commissioner or retail licensee; exceptions.**

1 (a)(1) All licensees shall purchase all alcoholic liquors sold by them from the West Virginia

2 Alcohol Beverage Control Commissioner at prices established by the commissioner for sales of  
3 the alcoholic liquors to the public generally or from any retail licensee licensed under the  
4 provisions of §60-3A-1 *et seq.* of this code, except that the:

5 (A) Licensees may purchase those wines permitted to be sold at retail pursuant to §60-8-  
6 1 *et seq.* of this code from those distributors licensed pursuant to said article at the same prices  
7 the distributors sell the wines to retailers licensed pursuant to said article; and

8 (B) Licensees may make purchases from a distillery or a mini-distillery as allowed by §60-  
9 4-3a(a)(1)(B) of this code.

10 (2) A licensee may by contract approved by the commissioner receive deliveries of  
11 alcoholic liquor from a retail liquor store, and the provisions of §60-6-12 and §60-6-13 of this code  
12 ~~shall~~ do not apply to the transportation of that alcoholic liquor.

13 (b) In all reports filed under §11-15-16 of this code, retail licensees licensed under the  
14 provisions of §60-3A-1 *et seq.* of this code shall separately identify the amount of sales tax on  
15 sales of liquor to licensees in the manner required by the Tax Commissioner.

16 (c) Notwithstanding the provisions of §11-15-30 of this code to the contrary, the amount  
17 of the sales taxes collected by the Tax Commissioner shall be deposited in a revolving fund  
18 account in the State Treasurer's office, designated the "Drunk Driving Prevention Fund", and  
19 administered by the Commission on Drunk Driving Prevention, subject to appropriations by the  
20 Legislature.

NOTE: The purpose of this bill is to allow a bar to purchase liquor from a distillery or a mini-distillery if it is within 10 miles of the distillery or mini-distillery.

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