

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

Senate Bill 638

SENATOR TRUMP, *original sponsor*

[Originating in the Committee on the Judiciary;

reported on February 10, 2020]

1 A BILL to amend and reenact §60-7-2, §60-7-6, §60-7-8a, and §60-7-12 of the Code of West
2 Virginia, 1931, as amended; and to amend and reenact §61-8-27 of said code, all relating
3 to creating new private club licenses and requirements for a private multivendor fair and
4 festival license, private night club license, private tennis club license, and a private
5 wedding venue license; setting private club license requirements; setting private club
6 license fees; setting private club hours of operations; and permitting certain exceptions to
7 the accompanied minor requirements.

Be it enacted by the Legislature of West Virginia:

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-2. Definitions; power to lease building for establishment of private club.

1 Unless the context in which used clearly requires a different meaning, as used in this
2 article:

3 (a) "Applicant" means a private club applying for a license under the provisions of this
4 article.

5 (b) "Code" means the official Code of West Virginia, 1931, as amended.

6 (c) "Commissioner" means the West Virginia Alcohol Beverage Control Commissioner.

7 (d) "Licensee" means the holder of a license to operate a private club granted under this
8 article, which ~~license shall remain~~ is unexpired, unsuspended, and unrevoked.

9 (e) "Private club" means any corporation or unincorporated association which either: (1)
10 Belongs to or is affiliated with a nationally recognized fraternal or veterans' organization which is
11 operated exclusively for the benefit of its members, which pays no part of its income to its
12 shareholders or individual members, which owns or leases a building or other premises to which
13 club are admitted only duly elected or approved dues-paying members in good standing of the
14 corporation or association and their guests while in the company of a member and to which club

15 the general public is not admitted, and which club maintains in the building or on the premises a
16 suitable kitchen and dining facility with related equipment for serving food to members and their
17 guests; ~~or~~ (2) is a nonprofit social club, which is operated exclusively for the benefit of its
18 members, which pays no part of its income to its shareholders or individual members, which owns
19 or leases a building or other premises to which club are admitted only duly elected or approved
20 dues-paying members in good standing of the corporation or association and their guests while
21 in the company of a member and to which club the general public is not admitted, and which club
22 maintains in the building or on the premises a suitable kitchen and dining facility with related
23 equipment for serving food to members and their guests; ~~or~~ (3) is organized and operated for
24 legitimate purposes which has at least 100 duly elected or approved dues-paying members in
25 good standing, which owns or leases a building or other premises, including any vessel licensed
26 or approved by any federal agency to carry or accommodate passengers on navigable waters of
27 this state, to which club are admitted only duly elected or approved dues-paying members in good
28 standing of the corporation or association and their guests while in the company of a member and
29 to which club the general public is not admitted, and which club maintains in the building or on
30 the premises a suitable kitchen and dining facility with related equipment and employs a sufficient
31 number of persons for serving meals to members and their guests; or (4) is organized for
32 legitimate purposes and owns or leases a building or other delimited premises in any state,
33 county, or municipal park or at any airport, in which building or premises a club has been
34 established, to which club are admitted only duly elected and approved dues-paying members in
35 good standing and their guests while in the company of a member and to which club the general
36 public is not admitted, and which maintains in connection with the club a suitable kitchen and
37 dining facility and related equipment and employs a sufficient number of persons for serving meals
38 in the club to the members and their guests.

39 (f) "Private fair and festival" means an applicant for a private club or a licensed private club
40 meeting the requirements of §60-7-8a of this code for a temporary event, ~~and the criteria set forth~~
41 ~~in this subsection~~ which:

42 (1) Has at least 100 members;

43 (2) Has been sponsored, endorsed, or approved, in writing, by the governing body (or its
44 duly elected or appointed officers) of either the municipality or of the county wherein the festival,
45 fair, or other event is to be conducted;

46 (3) Shall prepare, provide, or engage a food caterer to provide adequate freshly prepared
47 food or meals to serve its stated members and guests who will be attending the temporary festival,
48 fair, or other event, and further shall provide any documentation or agreements of such to the
49 commissioner prior to approval;

50 (4) Shall not use third-party entities or individuals to purchase, sell, furnish, or serve
51 alcoholic liquors (liquor and wine), nonintoxicating beer, or nonintoxicating craft beer;

52 (5) Shall provide adequate restroom facilities, whether permanent or portable, to serve the
53 stated members and guests who will be attending the festival, fair, or other event;

54 (6) Shall provide a floorplan for the proposed premises with a defined and bounded area
55 which may include both indoor and outdoor property to safely account for the ingress and egress
56 of stated members and guests who will be attending the festival, fair, or other event, the floorplan
57 shall comprise the licensed premises, which is authorized for the lawful sale, service, and
58 consumption of alcoholic liquors throughout the licensed premises whether these activities were
59 conducted in a building or structure, or outdoors while on the licensed premises; and

60 (7) Meets and be subject to all other private club requirements; and

61 ~~(7)~~ (8) Utilizes Uses an age verification system approved by the commissioner.

62 (g) "Private hotel" means an applicant for a private club or licensed private club licensee
63 which:

64 (1) Has at least 2,000 members;

65 (2) Offers short-term, daily rate accommodations or lodging for members and their guests
66 amounting to at least 30 separate bedrooms, and also offers a conference center for meetings;

67 (3) Operates a restaurant and full kitchen with ovens, four-burner ranges, walk-in freezers,
68 and other kitchen utensils and apparatus as determined by the commissioner on the licensed
69 premises and serves freshly prepared food at least 20 hours per week;

70 (4) Maintains, at any one time, \$2,500 of fresh food inventory capable of being prepared
71 in the private hotel's full kitchen, and in calculating the food inventory the commissioner may not
72 include microwavable, frozen, or canned foods;

73 (5) Owns or leases, controls, operates, and uses acreage amounting to more than one
74 acre but fewer than three acres, which are contiguous acres of bounded or fenced real property
75 which would be listed on the licensee's floorplan and would be used for hotel and conferences
76 and large contracted-for group-type events such as weddings, reunions, conferences, meetings,
77 and sporting or recreational events;

78 (6) Lists in the application referenced in subdivision (5) of this subsection the entire
79 property and all adjoining buildings and structures on the private hotel's floorplan which would
80 comprise the licensed premises, and which would be authorized for the lawful sales, service, and
81 consumption of alcoholic liquors throughout the licensed premises whether these activities were
82 conducted in a building or structure or outdoors while on the private hotel's licensed premises and
83 as noted on the private hotel's floorplan;

84 (7) Has an identified person, persons, or entity that has right, title, and ownership or lease
85 interest in the real property buildings and structures located on the proposed licensed premises;
86 and

87 (8) Meets and is subject to all other private club requirements; and

88 ~~(8) (9) Utilizes~~ Uses an age verification system approved by the commissioner.

89 (h) "Private multivendor fair and festival" means an applicant for a private club or a licensed
90 private club meeting the requirements of §60-7-8a of this code for a temporary one-day event

91 where multiple vendors share liability and apply for a temporary license with each vendor being
92 permitted to temporarily purchase, sell, furnish, or serve alcoholic liquors (liquor and wine),
93 nonintoxicating beer, or nonintoxicating craft beer, and which:

94 (1) Has at least two separate and unrelated vendors applying for the license and certifying
95 that at least 100 members will be in attendance;

96 (2) Has each vendor provide documentation that the one-day event and each vendor has
97 been sponsored, endorsed, or approved, in writing, by the governing body, or its duly elected or
98 appointed officers, of either the municipality or of the county in which the festival, fair, or other
99 event is to be conducted;

100 (3) Prepare, provide, or engages a food caterer to prepare and provide adequate freshly
101 prepared food or meals to serve its stated members and guests who will be attending the
102 temporary festival, fair, or other event, and further shall provide any documentation or agreements
103 of such to the commissioner prior to approval;

104 (4) Shall purchase all alcoholic liquors for the event and not use third-party entities or
105 individuals to purchase, sell, furnish, or serve alcoholic liquors (liquor and wine), nonintoxicating
106 beer, or nonintoxicating craft beer;

107 (5) Shall provide adequate restroom facilities, whether permanent or portable, to serve the
108 stated members and guests who will be attending the festival, fair, or other event;

109 (6) Shall provide an agreement between the vendors and executed by all vendors and/or
110 food caterers stating that each vendor is jointly and severally liable for any improper acts or
111 conduct committed during the event;

112 (7) Shall provide a security plan indicating all vendor points of service, entrances, and
113 exits in order to verify members, patrons, and guests ages, whether a member, patron, or guest
114 is intoxicated, and to provide for the public health and safety of members, patrons, and guests;

115 (8) Provides a floorplan for the proposed premises with one defined and bounded indoor
116 and/or outdoor area to safely account for the ingress and egress of stated members, patrons, and

117 guests who will be attending the festival, fair, or other event, and such floorplan shall comprise
118 the licensed premises, which is authorized for the lawful sale, service, and consumption of
119 alcoholic liquors throughout the licensed premises whether these activities were conducted in a
120 building or structure, or outdoors while on the licensed premises;

121 (9) Shall meet and be subject to all other private club requirements; and

122 (10) Uses an age verification system approved by the commissioner.

123 (i) "Private night club" means an applicant for a private club or a licensed private club that
124 operates fewer than seven days a week and primarily does not open for business until the evening
125 or after 9:00 p.m. on weeknights and/or weekends and must close on or before 4:00 a.m., with all
126 music, entertainment, dancing, or other related activities ceasing at 3:30 a.m., all liquor, wine,
127 nonintoxicating beer, and nonintoxicating craft beer sales ceasing at 3:30 a.m., and the private
128 night club closed and all staff, employees, patrons, and persons exited from the licensed premises
129 by 4:00 a.m.; and further meeting the criteria set forth in this subsection which:

130 (1) Has at least 100 members;

131 (2) Does not use third-party entities or individuals to purchase, sell, furnish, or serve
132 alcoholic liquors (liquor and wine), nonintoxicating beer, or nonintoxicating craft beer;

133 (3) Lists all managers and persons involved in the day-to-day management of the
134 proposed premises or the licensed premises on its license application;

135 (4) Obtains liquor liability insurance at minimum coverage of \$1 million per occurrence;

136 (5) Provides a security plan and employs security personnel to protect the health and
137 safety of the members, patrons, guests, and the public;

138 (6) Provides a detailed floorplan for the proposed premises;

139 (7) Meets and is subject to all other private club requirements; and

140 (8) Provides and uses an age verification system approved by the commissioner.

141 (j) "Private resort hotel" means an applicant for a private club or licensed private club
142 licensee meeting the criteria set forth in this subsection which:

- 143 (1) Has at least 5,000 members;
- 144 (2) Offers short-term, daily rate accommodations or lodging for members and their guests
145 amounting to at least 50 separate bedrooms;
- 146 (3) Operates a restaurant and full kitchen with ovens, six-burner ranges, walk-in freezers,
147 and other kitchen utensils and apparatus as determined by the commissioner on the licensed
148 premises and serves freshly prepared food at least 25 hours per week;
- 149 (4) Maintains, at any one time, \$5,000 of fresh food inventory capable of being prepared
150 in the private resort hotel's full kitchen, and in calculating the food inventory the commissioner
151 may not include microwavable, frozen, or canned foods;
- 152 (5) Owns or leases, controls, operates, and uses acreage amounting to at least 10
153 contiguous acres of bounded or fenced real property which would be listed on the licensee's
154 floorplan, which may include both indoor and/or outdoor property, and would be used for
155 destination, resort, and large contracted-for group-type events such as weddings, reunions,
156 conferences, meetings, and sporting or recreational events;
- 157 (6) Lists the entire property from subdivision (5) of this subsection and all adjoining
158 buildings and structures on the private resort hotel's floorplan which would comprise the licensed
159 premises, which would be authorized for the lawful sales, service, and consumption of alcoholic
160 liquors throughout the licensed premises whether these activities were conducted in a building or
161 structure, or outdoors while on the private resort hotel's licensed premises and as noted on the
162 private resort hotel's floorplan;
- 163 (7) Has an identified person or persons or entity that has right, title, and ownership or lease
164 interest in the real property buildings and structures located on the proposed licensed premises;
- 165 (8) ~~Utilizes~~ Uses an age verification system approved by the commissioner; ~~and~~
- 166 (9) Meets and is subject to all other private club requirements; and
- 167 ~~(9)~~(10) May have a separately licensed resident brewer with a brewpub license inner-
168 connected via a walkway, doorway, or entryway, all as determined and approved by the

169 commissioner, for limited access during permitted hours of operation for tours and complimentary
170 samples at the resident brewery.

171 ~~(j)~~(k) "Private golf club" means an applicant for a private club or licensed private club
172 licensee ~~meeting the criteria set forth in this subsection~~ which:

173 (1) Has at least 100 members;

174 (2) Maintains at least one 18-hole golf course with separate and distinct golf playing holes,
175 not reusing nine golf playing holes to comprise the 18 golf playing holes, and a clubhouse;

176 (3) Operates a restaurant and full kitchen with ovens, as determined by the commissioner,
177 on the licensed premises and serves freshly prepared food at least 15 hours per week;

178 (4) Owns or leases, controls, operates, and uses acreage amounting to at least 80
179 contiguous acres of bounded or fenced real property which would be listed on the private golf
180 club's floorplan and could be used for golfing events and large contracted-for group-type events
181 such as weddings, reunions, conferences, meetings, and sporting or recreational events;

182 (5) Lists the entire property from subdivision (4) of this subsection and all adjoining
183 buildings and structures on the private golf club's floorplan which would comprise the licensed
184 premises, which would be authorized for the lawful sales, service, and consumption of alcoholic
185 liquors throughout the licensed premises whether these activities were conducted in a building or
186 structure, or outdoors while on the private golf club's licensed premises and as noted on the
187 private golf club's floorplan;

188 (6) Has an identified person or persons or entity that has right, title, and ownership interest
189 in the real property buildings and structures located on the proposed licensed premises; ~~and~~

190 (7) Meets and is subject to all other private club requirements; and

191 ~~(7)~~ (8) Utilizes Uses an age verification system approved by the commissioner.

192 ~~(j)~~ (l) "Private nine-hole golf course" means an applicant for a private club or licensed
193 private club licensee meeting the criteria set forth in this subsection which:

194 (1) Has at least 50 members;

195 (2) Maintains at least one nine-hole golf course with separate and distinct golf playing
196 holes;

197 (3) Operates a restaurant and full kitchen with ovens, as determined by the commissioner,
198 on the licensed premises and serves freshly prepared food at least 15 hours per week;

199 (4) Owns or leases, controls, operates, and uses acreage amounting to at least 30
200 contiguous acres of bounded or fenced real property which would be listed on the private nine-
201 hole golf course's floorplan and could be used for golfing events and large contracted-for group-
202 type events such as weddings, reunions, conferences, meetings, and sporting or recreational
203 events;

204 (5) Lists the entire property from subdivision (4) of this subsection and all adjoining
205 buildings and structures on the private nine-hole golf course's floorplan which would comprise the
206 licensed premises, which would be authorized for the lawful sales, service, and consumption of
207 alcoholic liquors throughout the licensed premises whether these activities were conducted in a
208 building or structure, or outdoors while on the private nine-hole golf course's licensed premises
209 and as noted on the private nine-hole golf course's floorplan;

210 (6) Has an identified person, persons, or entity that has right, title, and ownership interest
211 in the real property buildings and structures located on the proposed licensed premises; ~~and~~

212 (7) Meets and is subject to all other private club requirements; and

213 ~~(7)(8) Utilizes~~ Uses an age verification system approved by the commissioner.

214 (m) "Private tennis club" means an applicant for a private club or licensed private club
215 licensee which:

216 (1) Has at least 100 members;

217 (2) Maintains at least five separate and distinct tennis courts, either indoor or outdoor, and
218 a clubhouse or similar facility;

219 (3) Has a restaurant and full kitchen with ovens, as determined by the commissioner, on
220 the licensed premises and is capable of serving freshly prepared food;

221 (4) Owns or leases, controls, operates, and uses acreage amounting to at least two
222 contiguous acres of bounded or fenced real property which would be listed on the private tennis
223 club's floorplan and could be used for tennis events and large contracted-for group-type events
224 such as weddings, reunions, conferences, tournaments, meetings, and sporting or recreational
225 events;

226 (5) Lists the entire property from subdivision (4) of this subsection and all adjoining
227 buildings and structures on the private golf club's floorplan which would comprise the licensed
228 premises, which would be authorized for the lawful sales, service, and consumption of alcoholic
229 liquors throughout the licensed premises whether these activities were conducted in a building or
230 structure, or outdoors while on the private tennis club's licensed premises and as noted on the
231 private tennis club's floorplan;

232 (6) Has an identified person or persons or entity that has right, title, and ownership interest
233 in the real property buildings and structures located on the proposed licensed premises;

234 (7) Meets and is subject to all other private club requirements; and

235 (8) Uses an age verification system approved by the commissioner.

236 (n) "Private wedding venue" means an applicant for a private club or licensed private club
237 licensee that is only open for reserved weddings, reunions, conferences, meetings, or other
238 events and does not maintain daily or regular operating hours, which:

239 (1) Has at least 25 members;

240 (2) Maintains a venue, facility, barn, or pavilion primarily for weddings, reunions,
241 conferences, meetings, or other events where parties must reserve the venue, facility, barn, or
242 pavilion in advance of the event;

243 (3) Operates a restaurant and full kitchen with ovens, as determined by the commissioner,
244 on the licensed premises capable of serving freshly prepared food, or engages a food caterer to
245 provide adequate freshly prepared food or meals to serve its stated members, guests, and patrons
246 who will be attending the event at the private wedding venue, and further the applicant or licensee

247 shall provide any documentation or agreements of such to the commissioner prior to approval of
248 this food catering arrangement;

249 (4) Owns or leases, controls, operates, and uses acreage amounting to at least two
250 contiguous acres of bounded or fenced real property or can verify that if the property is less than
251 two acres that the property is remotely located, as determined by the commissioner, which would
252 be listed on the private wedding venue's floorplan and could be used for contracted-for group-
253 type weddings, reunions, conferences, meetings, or other events;

254 (5) Lists the entire property from subdivision (4) of this subsection and all adjoining
255 buildings and structures on the private wedding venue's floorplan which would comprise the
256 licensed premises, which would be authorized for the lawful sales, service, and consumption of
257 alcoholic liquors throughout the licensed premises whether these activities were conducted in a
258 building or structure or outdoors while on the private wedding venue's licensed premises and as
259 noted on the private wedding venue's floorplan;

260 (6) Has an identified person, persons, or entity that has right, title, and ownership interest
261 in the real property buildings and structures located on the proposed licensed premises;

262 (7) Meets and is subject to all other private club requirements; and

263 (8) Uses an age verification system approved by the commissioner.

264 The Department of Natural Resources, the authority governing any county or municipal
265 park, or any county commission, municipality, other governmental entity, public corporation, or
266 public authority operating any park or airport may lease as lessor a building or portion thereof or
267 other limited premises in any such park or airport to any corporation or unincorporated association
268 for the establishment of a private club pursuant to this article.

§60-7-6. Annual license fee; partial fee; and reactivation fee.

1 (a) The annual license fee for a license issued under the provisions of this article to a
2 fraternal or veterans' organization or a nonprofit social club shall be \$750.

3 (b) The annual license fee for a license issued under the provisions of this article to a
4 private club other than a private club of the type specified in subsection (a) of this section ~~shall be~~
5 is \$1,000 if the private club has fewer than 1,000 members, ~~\$2,000~~ \$1,500 if the private club is a
6 private nine-hole golf course, private tennis club, or a private wedding venue as defined in §60-
7 7-2 of this code; \$2,500 if the private club has 1,000 or more members, or is a private golf club
8 as defined in §60-7-2 of this code; \$4,000 if the private club is a private hotel with three or fewer
9 designated areas or a private-golf night club as defined in §60-7-2 of this code, and further, if the
10 private club is a private resort hotel as defined in §60-7-2 of this code, ~~said the~~ private resort hotel
11 may designate areas within the licensed premises for the lawful sale, service, and consumption
12 of alcoholic liquors as provided for by this article. The annual license fee for a private resort hotel
13 with five or fewer designated areas ~~shall be~~ is \$7,500, and the annual license fee for a private
14 resort hotel with at least six but no more than 10 designated areas ~~shall be~~ is \$12,500. The annual
15 license fee for a private resort hotel with at least 11 but no more than 15 designated areas ~~shall~~
16 ~~be~~ is \$17,500. The annual license fee for a private resort hotel with no fewer than 15 nor more
17 than 20 designated areas ~~shall be~~ is \$22,500: *Provided*, That a private resort hotel having
18 obtained the license and paid the \$22,500 annual license fee may, upon application to and
19 approval of the commissioner, designate additional areas for a period not to exceed seven days
20 for an additional fee of \$150 per day, per designated area.

21 (c) The fee for any ~~such~~ license issued following January 1 of any year and to expire on
22 June 30 of ~~such~~ that year shall be one half of the annual license fee prescribed by subsections
23 (a) and (b) of this section.

24 (d) A licensee that fails to complete a renewal application and make payment of its annual
25 license fee in renewing its license on or before June 30 of any subsequent year, after initial
26 application, ~~shall be charged~~ pay an additional \$150 reactivation fee. The fee payment may not
27 be prorated or refunded, and the reactivation fee must be paid prior to the processing of any
28 renewal application and payment of the applicable full year annual license fee. A licensee who

29 continues to operate upon the expiration of its license is subject to all fines, penalties, and
30 sanctions available in §60-7-13 and §60-7-13a of this code, all as determined by the
31 commissioner.

32 (e) All such fees shall be paid by the commissioner to the State Treasurer and credited to
33 the General Revenue Fund of the state.

§60-7-8a. Special license for a private fair and festival and private multivendor fair and festival; licensee fee and application; license fee; license subject to provisions of article; exception.

1 (a) There is ~~hereby~~ created a special license designated Class S2 private fair and festival
2 license for the retail sale of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer for
3 on-premises consumption.

4 (b) There is created a special license designated a Class S3 private multivendor fair and
5 festival license for the retail sale of liquor, wine, nonintoxicating beer, and nonintoxicating craft
6 beer for on-premises consumption.

7 (c) To be eligible for the license authorized by subsection (a) of this section, the private
8 fair and festival or other event shall:

9 (1) Be sponsored, endorsed, or approved by the governing body or its designee of the
10 county or municipality in which the private fair and festival or other event is located;

11 (2) Make application with the commission at least 15 days pursuant to the private fair,
12 festival, or other event;

13 (3) Pay a nonrefundable, nonprorated license fee of \$750; and

14 (4) Be approved by the commissioner to operate the private fair, festival, or other event.

15 (d) To be eligible for the license authorized by subsection (b) of this section, the private
16 multivendor fair and festival or other event shall:

17 (1) Be sponsored, endorsed, or approved by the governing body or its designee of the
18 county or municipality in which the private multivendor fair and festival or other event is located;

19 (2) Shall make application with the commission at least 15 days pursuant to the private
20 multivendor fair, festival, or other event;

21 (3) Pay a nonrefundable, nonprorated license fee of \$1,500; and

22 (4) Be approved by the commissioner to operate the private multivendor fair, festival, or
23 other event.

24 ~~(e)~~ (e) A private fair and festival license under this section shall be for a duration of no
25 more than 10 consecutive days and no more than six licenses may be issued to the same person
26 or entity in a calendar year.

27 (f) A private multivendor fair and festival license under this section shall be for a duration
28 of no more than one day and no more than six licenses may be issued to the same person or
29 entity in a calendar year. Separate applications may be filed and licenses may be issued for
30 consecutive days.

31 ~~(d)~~(g) Nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or
32 served pursuant to the Class S2 and Class S3 licenses ~~license~~ created by this section must be
33 purchased from the licensed distributor that services the area in which the private fair and festival,
34 or private multivendor fair or festival is held or from a resident brewer acting in a limited capacity
35 as a distributor, all in accordance with §11-16-1 *et seq.* of this code.

36 ~~(e)~~(h) Wine sold, furnished, tendered, or served pursuant to the Class S2 and Class S3
37 licenses ~~license~~ created by this section shall be purchased from a licensed distributor, winery, or
38 farm winery in accordance with §60-8-1 *et seq.* of this code.

39 ~~(f)~~(i) Liquor sold, furnished, tendered, or served pursuant to the S2 and S3 licenses
40 ~~license~~ created by this section shall be purchased from a licensed retail liquor outlet in the market
41 zone or contiguous market zone where the private fair or festival, or private multivendor fair or
42 festival is occurring, all in accordance with §60-3A-1 *et seq.* of this code.

43 ~~(g)~~(i) A licensee authorized by this section may ~~utilize~~ use bona fide employees or
44 volunteers to sell, furnish, tender, or serve the nonintoxicating beer, nonintoxicating craft beer,
45 wine, or liquor.

46 ~~(h)~~(k) Licensed representatives of a brewer, resident brewer, beer distributor, wine
47 distributor, wine supplier, winery, farm winery, distillery, mini-distillery, and liquor broker
48 representatives may attend a private fair and festival, or private multivendor fair and festival and
49 discuss their respective products but shall may not ~~engage in the selling, furnishing, tendering, or~~
50 ~~selling of~~ sell, furnish, tender, or serve any nonintoxicating beer, nonintoxicating craft beer, wine,
51 or liquor.

52 ~~(i)~~(l) A licensee authorized by this section shall cease all operations by 1:00 a.m., including
53 but not limited to: Alcohol sales, alcohol purchases, alcohol consumption, and any entertainment
54 or other related activity, and all staff or employees who are cleaning or closing the fair or festival
55 shall leave the licensed premises when the licensed premises closes by 2:00 a.m.

56 ~~(j)~~(m) A license issued under this section and the licensee are subject to all other
57 provisions of this article and the rules and orders of the commissioner: *Provided*, That the
58 commissioner may by rule or order allow certain waivers or exceptions with respect to those
59 provisions, rules, or orders as the circumstances of each private fair and festival or private
60 multivendor fair or festival require, including without limitation, the right to revoke or suspend
61 immediately any license issued under this section prior to any notice or hearing, notwithstanding
62 §60-7-13a of this code: *Provided, however*, That under no circumstances may the provisions of
63 §60-7-12 of this code be waived or an exception granted with respect ~~thereto~~ to those provisions.

§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~~ the
2 licensee's premises to:

3 (1) Sell, offer for sale, tender, or serve any alcoholic liquors other than by the drink poured
4 from the original package or container, except as authorized in §60-6-8 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
7 machine, multiple-coin console slot machine, or device in the nature of a slot machine; however,
8 various games, gaming, and wagering conducted by duly licensed persons of the West Virginia
9 State Lottery Commission, charitable bingo games conducted by duly licensed charitable or public
10 service organization (or its auxiliaries), pursuant to §47-20-1 *et seq.* of this code, and charitable
11 raffle games conducted by a duly licensed charitable or public service organization (or its
12 auxiliaries), pursuant to §47-21-1 *et seq.* of this code, all of which are permissible on a licensee's
13 licensed premises when operated in accordance with this code, rules, and regulations: *Provided,*
14 That a private resort hotel holding a license issued pursuant to §60-7-1 *et seq.* of this code, may
15 sell, tender, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on the premises
16 licensed under §29-22A-1 *et seq.* and §29-22C-1 *et seq.*, or §29-25-1 *et seq.* of this code, during
17 hours of operation authorized by §29-22A-1 *et seq.* and §29-22C-1 *et seq.*, or §29-25-1 *et seq.* of
18 this code;

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

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

26 (5) Sell, give, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on any
27 licensed premises, or in any rooms directly connected therewith between the hours of 3:00 a.m.
28 and 7:00 a.m. on weekdays or Saturdays, between the hours of 3:00 a.m. and 10:00 a.m. on any
29 Sunday or, between the hours of 3:00 a.m. and 1:00 p.m. in any county upon approval as provided
30 for in §7-1-3ss of this code, on any Sunday: *Provided, That a private night club licensee shall not*

31 sell, give, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on any licensed
32 premises, or in any rooms directly connected with the licensed premises between the hours of
33 3:30 a.m. and 7:00 a.m. on weekdays or Saturdays, between the hours of 3:30 a.m. and 10:00
34 a.m. on any Sunday or, between the hours of 3:30 a.m. and 1:00 p.m. in any county where a
35 county option election has been held pursuant to §7-1-3ss of this code: *Provided, however, That*
36 a private night club shall cease all music, entertainment, dancing or other related activities at 3
37 a.m., and the licensed premises shall close and all staff, employees, patrons, and persons shall
38 exit from the licensed premises by 4 a.m.: *Provided further, That a private fair or festival and a*
39 private multivendor fair or festival must cease operations and cease all activities as set forth in
40 §60-7-8a(i) of this code;

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

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

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

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

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

55 (B) Employ any person who is between the ages of 18 and 21 who is not directly
56 supervised by a person aged 21 or over in a position where the primary responsibility for ~~such~~ the

57 employment is to sell, furnish, tender, serve, or give nonintoxicating beer, wine, or alcoholic
58 liquors to any person; or

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

60 (b) It is lawful for any licensee to advertise price and brand in any news media or other
61 means, outside of the licensee's premises.

62 (c) Any person who violates any of the ~~foregoing~~ provisions of this section is guilty of a
63 misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than
64 \$1,000, or confined in jail for a period not to exceed one year, or both fined and confined.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY, AND DECENCY.

§61-8-27. Unlawful admission of children to dance house, etc.; penalty.

1 Any proprietor or any person in charge of a dance house, concert saloon, theater,
2 museum, or similar place of amusement, or other place, where wines or spirituous or malt liquors
3 are sold or given away, or any place of entertainment injurious to health or morals who admits or
4 permits to remain therein any minor under the age of 18 years, unless accompanied by his or her
5 parent or guardian, is guilty of a misdemeanor and, on conviction thereof, shall be punished by a
6 fine not exceeding \$200: *Provided*, That there is exemption from this prohibition for: (a) A private
7 hotel, private nine-hole golf course, private resort hotel, ~~and~~ private golf club, private tennis club,
8 private wedding venue licensed pursuant to §60-7-1 *et seq.* of this code and in compliance with
9 §60-7-2(g)~~(8)~~(9), §60-7-2(h)~~(7)~~(l)(8), §60-7-2(i)~~(7)~~(j)(8), ~~and~~ §60-7-2(j)~~(7)~~(k)(8), §60-7-2(m)(8),
10 and §60-7-2(n)(8) of this code; (b) a private club with more than 1,000 members that is in good
11 standing with the Alcohol Beverage Control Commissioner, that has been approved by the Alcohol
12 Beverage Control Commissioner, and which has designated certain seating areas on its licensed
13 premises as nonalcoholic liquor and nonintoxicating beer areas, as noted in the licensee's
14 floorplan; or (c) a private fair and festival and a private multivendor fair or festival that ~~is~~ are in

15 compliance with ~~§60-7-2(f)(7)(9)~~ and §60-7-2(h)(10) of this code, by ~~utilizing~~ using a mandatory
16 carding or identification program ~~whereby~~ which all members or guests being served or sold
17 alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer are asked and must provide
18 their proper identification to verify their identity and further that they are of legal drinking age, 21
19 years of age or older, prior to each sale or service of alcoholic liquors, nonintoxicating beer, or
20 nonintoxicating craft beer.