

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4085

By Delegate Holstein

[Introduced January 14, 2026; referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §11-16-18, §11-16-19, and §60-3A-24 of the Code of West Virginia,
2 1931, as amended, relating to increasing the penalties for selling to or obtaining alcohol for
3 a minor.

Be it enacted by the Legislature of West Virginia:

CHAPTER 11. TAXATION.

ARTICLE 16. NONINTOXICATING BEER.

§11-16-18. Unlawful acts of licensees; criminal penalties.

1 (a) It is unlawful:
2 (1) Except as provided for in §7-1-3ss and this chapter of this code, any licensee, his, her,
3 its, or their servants, agents, or employees to sell, give, or dispense, or any individual to drink or
4 consume, in or on any licensed premises or in any rooms directly connected thereto,
5 nonintoxicating beer between the hours of 2:00 a.m. and 6:00 a.m., or a Class A retail dealer to
6 sell nonintoxicating beer for on-premises consumption only between the hours of 2:00 a.m. and
7 6:00 a.m.;
8 (2) For any licensee, his, her, its, or their servants, agents, or employees to sell, furnish, or
9 give any nonintoxicating beer, as defined in this article, to any person visibly or noticeably
10 intoxicated or to any person known to be insane or known to be a habitual drunkard;
11 (3) For any licensee, his, her, its, or their servants, agents, or employees to sell, furnish, or
12 give any nonintoxicating beer as defined in this article to any person who is less than 21 years of
13 age;
14 (4) For any distributor to sell or offer to sell, or any retailer to purchase or receive, any
15 nonintoxicating beer as defined in this article, except for cash and a right of action shall not exist to
16 collect any claims for credit extended contrary to the provisions of this subdivision. Nothing
17 contained in this section prohibits a licensee from crediting to a purchasing person the actual price
18 charged for packages or containers returned by the original purchasing person as a credit on any

19 sale, or from refunding to any purchasing person the amount paid or deposited for the containers
20 when title is retained by the vendor: *Provided*, That a distributor may accept an electronic transfer
21 of funds if the transfer of funds is initiated by an irrevocable payment order on the invoiced amount
22 for the nonintoxicating beer. The cost of the electronic fund transfer shall be borne by the retailer
23 and the distributor shall initiate the transfer no later than noon of one business day after the
24 delivery;

25 (5) For any brewer or distributor to give, furnish, rent, or sell any equipment, fixtures, signs,
26 supplies, or services directly or indirectly or through a subsidiary or affiliate to any licensee
27 engaged in selling products of the brewing industry at retail or to offer any prize, premium, gift, or
28 other similar inducement, except advertising matter, including indoor electronic or mechanical
29 signs, of nominal value up to \$25.00 per stock keeping unit, to either trade or consumer buyers:
30 *Provided*, That a distributor may offer, for sale or rent, tanks of carbonic gas: *Provided, however*,
31 That, in the interest of public health and safety, a distributor may, independently or through a
32 subsidiary or affiliate, furnish, sell, install, or maintain draught line equipment, supplies, and
33 cleaning services to a licensed retailer so long as the furnishing or sale of draught line services
34 may be negotiated at no less than actual cost: *Provided further*, That a distributor may furnish,
35 rent, or sell equipment, fixtures, signs, services, or supplies directly or indirectly or through a
36 subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail
37 under the conditions and within the limitations as prescribed in this section. Nothing contained in
38 this section prohibits a brewer from sponsoring any professional or amateur athletic event or from
39 providing prizes or awards for participants and winners in any events.

40 (6) For any brewer or distributor to sponsor any professional or amateur athletic event or
41 provide prizes or awards for participants and winners when a majority of the athletes participating
42 in the event are minors, unless the event is specifically authorized by the commissioner;

43 (7) For any retail licensee to sell or dispense nonintoxicating beer through draught lines
44 where the draught lines have not been cleaned at least every two weeks in accordance with rules

45 promulgated by the commissioner, and where written records of all cleanings are not maintained
46 and available for inspection;

47 (8) For any licensee to permit in his or her premises any lewd, immoral, or improper
48 entertainment, conduct, or practice;

49 (9) For any licensee, except the holder of a license to operate a private club issued under
50 the provisions of §60-7-1 *et seq.* of this code or a holder of a license or a private wine restaurant
51 issued under the provisions of §60-8-1 *et seq.* of this code to possess a federal license, tax receipt,
52 or other permit entitling, authorizing, or allowing the licensee to sell liquor or alcoholic drinks other
53 than nonintoxicating beer;

54 (10) For any licensee to obstruct the view of the interior of his or her premises by
55 enclosure, lattice, drapes, or any means which would prevent plain view of the patrons occupying
56 the premises. The interior of all licensed premises shall be adequately lighted at all times:
57 *Provided*, That provisions of this subdivision do not apply to the premises of a Class B retailer, the
58 premises of a private club licensed under the provisions of §60-7-1 *et seq.* of this code, or the
59 premises of a private wine restaurant licensed under the provisions of §60-8-1 *et seq.* of this code;

60 (11) For any licensee to manufacture, import, sell, trade, barter, possess, or acquiesce in
61 the sale, possession, or consumption of any alcoholic liquors on the premises covered by a license
62 or on premises directly or indirectly used in connection with it: *Provided*, That the prohibition
63 contained in this subdivision with respect to the selling or possessing or to the acquiescence in the
64 sale, possession, or consumption of alcoholic liquors is not applicable with respect to the holder of
65 a license to operate a private club issued under the provisions of §60-7-1 *et seq.* of this code, nor
66 shall the prohibition be applicable to a private wine restaurant licensed under the provisions of
67 §60-8-1 *et seq.* of this code insofar as the private wine restaurant is authorized to serve wine;

68 (12) For any retail licensee to sell or dispense nonintoxicating beer, as defined in this
69 article, purchased or acquired from any source other than a distributor, brewer, or manufacturer
70 licensed under the laws of this state;

71 (13) For any licensee to permit loud, boisterous, or disorderly conduct of any kind upon his
72 or her premises or to permit the use of loud musical instruments if either or any of the same may
73 disturb the peace and quietude of the community where the business is located: *Provided*, That a
74 licensee may have speaker systems for outside broadcasting as long as the noise levels do not
75 create a public nuisance or violate local noise ordinances;

76 (14) For any person whose license has been revoked, as provided in this article, to obtain
77 employment with any retailer within the period of one year from the date of the revocation, or for
78 any retailer to knowingly employ that person within the specified time;

79 (15) For any distributor to sell, possess for sale, transport, or distribute nonintoxicating
80 beer except in the original container;

81 (16) For any licensee to knowingly permit any act to be done upon the licensed premises,
82 the commission of which constitutes a crime under the laws of this state;

83 (17) For any Class B retailer to permit the consumption of nonintoxicating beer upon his or
84 her licensed premises;

85 (18) For any Class A licensee, his, her, its, or their servants, agents, or employees, or for
86 any licensee by or through any servants, agents, or employees, to allow, suffer, or permit any
87 person less than 18 years of age to loiter in or upon any licensed premises; except, however, that
88 the provisions of this subdivision do not apply where a person under the age of 18 years is in or
89 upon the premises in the immediate company of a parent or legal guardian, or where and while a
90 person under the age of 18 years is in or upon the premises for the purpose of and actually making
91 a lawful purchase of any items or commodities sold, or for the purchase of and actually receiving
92 any lawful service rendered in the licensed premises, including the consumption of any item of
93 food, drink, or soft drink lawfully prepared and served or sold for consumption on the premises:

94 (19) For any distributor to sell, offer for sale, distribute, or deliver any nonintoxicating beer
95 outside the territory assigned to any distributor by the brewer or manufacturer of nonintoxicating
96 beer or to sell, offer for sale, distribute, or deliver nonintoxicating beer to any retailer whose

97 principal place of business or licensed premises is within the assigned territory of another
98 distributor of the nonintoxicating beer: *Provided*, That nothing in this section is considered to
99 prohibit sales of convenience between distributors licensed in this state where one distributor
100 sells, transfers, or delivers to another distributor a particular brand or brands for sale at wholesale;
101 and

102 (20) For any licensee or any agent, servant, or employee of any licensee to knowingly
103 violate any rule lawfully promulgated by the commissioner in accordance with the provisions of
104 chapter 29A of this code.

105 (b) Any person who violates any provision of this article, including, but not limited to, any
106 provision of this section, or any rule, or order lawfully promulgated by the commissioner, or who
107 makes any false statement concerning any material fact in submitting an application for a license
108 or for a renewal of a license or in any hearing concerning the revocation of a license, or who
109 commits any of the acts in this section declared to be unlawful is guilty of a misdemeanor and,
110 upon conviction thereof, shall be punished for each offense by a fine of not less than ~~\$25~~ \$50, nor
111 more than ~~\$500~~ \$1,000, or confined in the county or regional jail for not less than ~~30~~ 60 days nor
112 more than ~~six months~~ one year, or by both fine and confinement. Magistrates have concurrent
113 jurisdiction with the circuit court and any other courts having criminal jurisdiction in their county for
114 the trial of all misdemeanors arising under this article.

115 (c) (1) A Class B licensee that:

116 (A) Has installed a transaction scan device on its licensed premises; and

117 (B) Can demonstrate that it requires each employee, servant, or agent to verify the age of
118 any individual to whom nonintoxicating beer or nonintoxicating craft beer is sold, furnished, or
119 given away by the use of the transaction device is not subject to: (i) Any criminal penalties
120 whatsoever, including those set forth in subsection (b) of this section; (ii) any administrative
121 penalties from the commissioner; or (iii) any civil liability whatsoever for the improper sale,
122 furnishing, or giving away of nonintoxicating beer or nonintoxicating craft beer to an individual who

123 is less than 21 years of age by one of his or her employees, servants, or agents. Any agent,
124 servant, or employee who has improperly sold, furnished, or given away nonintoxicating beer to an
125 individual less than 21 years of age is subject to the criminal penalties of subsection (b) of this
126 section. Any agent, servant, or employee who has improperly sold, furnished, or given away
127 nonintoxicating beer to an individual less than 21 years of age is subject to termination from
128 employment, and the employer shall have no civil liability for the termination.

129 (2) For purposes of this section, a Class B licensee can demonstrate that it requires each
130 employee, servant, or agent to verify the age of any individual to whom nonintoxicating beer is sold
131 by providing evidence: (A) That it has developed a written policy which requires each employee,
132 servant, or agent to verify the age of each individual to whom nonintoxicating beer will be sold,
133 furnished, or given away; (B) that it has communicated this policy to each employee, servant, or
134 agent; and (C) that it monitors the actions of its employees, servants, or agents regarding the sale,
135 furnishing, or giving away of nonintoxicating beer and that it has taken corrective action for any
136 discovered noncompliance with this policy.

137 (3) "Transaction scan" means the process by which a person checks, by means of a
138 transaction scan device, the age and identity of the cardholder, and "transaction scan device"
139 means any commercial device or combination of devices used at a point of sale that is capable of
140 deciphering in an electronically readable format the information enclosed on the magnetic strip or
141 bar code of a driver's license or other governmental identity card.

142 (d) Nothing in this article nor any rule of the commissioner shall prevent or be considered to
143 prohibit any licensee from employing any person who is at least 18 years of age to serve in the
144 licensee's lawful employ, including the sale or distribution of nonintoxicating beer as defined in this
145 article. With the prior approval of the commissioner, a licensee whose principal business is the
146 sale of food or consumer goods, or the providing of recreational activities, including, but not limited
147 to, nationally franchised fast food outlets, family oriented restaurants, bowling alleys, drug stores,
148 discount stores, grocery stores, and convenience stores, may employ persons who are less than

149 18 years of age, but at least 16 years of age: *Provided*, That the person's duties may include the
150 sale of nonintoxicating beer or alcoholic liquors only when directly supervised by a person 21
151 years of age or older: *Provided, however*, That the authorization to employ persons under the age
152 of 18 years shall be clearly indicated on the licensee's license.

§11-16-19. Unlawful acts of persons; criminal penalties.

1 (a) (1) Any person under the age of 21 years, who purchases, consumes, sells, possesses
2 or serves nonintoxicating beer is guilty of a misdemeanor and, upon conviction thereof, shall be
3 fined an amount not to exceed \$500 or shall be confined in jail, or, in the case of a juvenile, a
4 detention facility, for a period not to exceed 72 hours, or both fined and confined or, in lieu of such
5 fine and confinement, may, for the first offense, be placed on probation for a period not to exceed
6 one year. Any person convicted under this section may be sentenced pursuant to the provisions of
7 §62-11A-1a of this code.

8 (2) Nothing in this article, nor any rule or regulation of the commissioner, shall prevent or be
9 deemed to prohibit any person who is at least 18 years of age from serving in the lawful
10 employment of any licensee, which may include the sale or delivery of nonintoxicating beer as
11 defined in this article. Further, nothing in this article, nor any rule or regulation of the commissioner,
12 shall prevent or be deemed to prohibit any person who is less than 18 but at least 16 years of age
13 from being employed by a licensee whose principal business is the sale of food or consumer
14 goods or the providing of recreational activities, including, but not limited to, nationally franchised
15 fast-food outlets, family-oriented restaurants, bowling alleys, drug stores, discount stores, grocery
16 stores and convenience stores: *Provided*, That such person shall not sell or deliver nonintoxicating
17 beer.

18 (3) Nothing in this subsection shall prohibit a person who is at least 18 years of age from
19 purchasing or possessing nonintoxicating beer when he or she is acting upon the request of or
20 under the direction and control of any member of a state, federal, or local law-enforcement agency
21 or the West Virginia Alcohol Beverage Administration while the agency is conducting an

22 investigation or other activity relating to the enforcement of the alcohol beverage control statutes
23 and the rules of the commissioner.

24 (b) Any person under the age of 21 years who, for the purpose of purchasing
25 nonintoxicating beer, misrepresents his or her age or who for such purpose presents or offers any
26 written evidence of age which is false, fraudulent or not actually his or her own or who illegally
27 attempts to purchase nonintoxicating beer is guilty of a misdemeanor and, upon conviction
28 thereof, shall be fined an amount not to exceed \$100 \$200 or shall be confined in jail, or in the case
29 of a juvenile, a juvenile detention facility, for a period not to exceed seventy-two 144 hours, or both
30 such fine and confinement or, in lieu of such fine and confinement, may, for the first offense, be
31 placed on probation for a period not exceeding one year.

32 (c) Any person who shall knowingly buy for, give to or furnish nonintoxicating beer to
33 anyone under the age of 21 to whom they are not related by blood or marriage is guilty of a
34 misdemeanor and, upon conviction thereof, shall be fined an amount not to exceed \$100 \$200 or
35 shall be confined in jail for a period not to exceed ten 20 days, or both such fine and confinement.

36 (d) (1) Any person who at any one time transports into the state for their personal use, and
37 not for resale, more than six and seventy-five hundredths gallons of nonintoxicating beer, upon
38 which the West Virginia barrel tax has not been imposed, shall be guilty of a misdemeanor and,
39 upon conviction thereof, shall be fined an amount not to exceed \$100 or confined for ten 10 days in
40 jail, or both fined and imprisoned. The untaxed nonintoxicating beer found in the person's
41 possession shall be confiscated.

42 (2) If the Congress of the United States repeals the mandate established by the Surface
43 Transportation Assistance Act of 1982 relating to national uniform drinking age of 21 as found in
44 section six of Public Law 98-363, or a court of competent jurisdiction declares the provision to be
45 unconstitutional or otherwise invalid, it is the intent of the Legislature that the provisions contained
46 in this section and §11-16-18 of this code which prohibit the sale, furnishing, giving, purchase or
47 ownership of nonintoxicating beer to or by a person who is less than 21 years of age shall be null

48 and void and the provisions therein shall thereafter remain in effect and apply to the sale,
49 furnishing, giving, purchase or ownership of nonintoxicating beer to or by a person who is less than
50 19 years of age.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.

§60-3A-24. Unlawful acts by persons.

1 (a) (1) Any person who is under the age of 21 years who purchases, consumes, sells,
2 serves or possesses alcoholic liquor is guilty of a misdemeanor and, upon conviction thereof, shall
3 be fined an amount not to exceed \$500 or shall be confined in jail, or, in the case of a juvenile, a
4 detention center, for a period not to exceed 72 hours, or both fined and imprisoned or, in lieu of
5 such fine and incarceration, may, for the first offense, be placed on probation for a period not to
6 exceed one year.

7 (2) Nothing in this article, nor any rule or regulation of the commissioner, shall prevent or be
8 deemed to prohibit any person who is at least 18 years of age from serving in the lawful
9 employment of a licensee which includes the sale and serving of alcoholic liquor.

10 (3) Nothing in this subsection shall prohibit a person who is at least 18 years of age from
11 purchasing or possessing alcoholic liquor when he or she is acting upon the request of or under
12 the direction and control of any member of a state, federal, or local law-enforcement agency or the
13 West Virginia Alcohol Beverage Control Administration while the agency is conducting an
14 investigation or other activity relating to the enforcement of the alcohol beverage control statutes
15 and the rules and regulations of the commissioner.

16 (b) Any person under the age of 21 years who, for the purpose of purchasing liquor from a
17 retail licensee, misrepresents his or her age or who for such purpose presents or offers any written
18 evidence of age which is false, fraudulent or not actually his or her own or who illegally attempts to
19 purchase liquor from a retail licensee is guilty of a misdemeanor and, upon conviction thereof,

20 shall be fined an amount not to exceed \$100 \$200 or confined in jail, or, in the case of a juvenile, a
21 detention facility, for a period not to exceed ~~seventy-two~~ 144 hours, or both fined and confined or,
22 in lieu of such fine and imprisonment, may, for the first offense, be placed on probation for a period
23 not exceeding one year. Any person convicted under this section may be sentenced pursuant to
24 the provisions of §62-11A-1a of this code.

25 (c) Any person who knowingly buys for, gives to or furnishes to anyone under the age of 21
26 to whom he or she is not related by blood or marriage any liquor from whatever source is guilty of a
27 misdemeanor and, upon conviction thereof, shall be fined an amount not to exceed \$250 \$500 or
28 confined in jail for a period not to exceed ~~ten~~ 20 days, or both fined and confined.

29 (d) No person while on the premises of a retail outlet may consume liquor or break the seal
30 on any package or bottle of liquor. Any person who violates the provisions of this subsection is
31 guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount not to exceed \$100
32 or confined in jail for a period not to exceed ten days, or both fined and confined.

NOTE: The purpose of this bill is to increase the penalties for selling or obtaining alcohol for a minor.

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