

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 5243**

By Delegates Pushkin and Garcia

[Introduced February 05, 2026; referred to the

Committee on the Judiciary]

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

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

#### **ARTICLE 4. LICENSES.**

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

1 (a) Sales of liquor. — An operator of a distillery, mini-distillery, or micro-distillery may offer  
2 liquor for retail sale

3 (1) To customers from the distillery, mini-distillery, or micro-distillery for consumption off-  
4 premises only. Except for complimentary samples offered pursuant to §60-6-1 of this code,  
5 customers may not consume any liquor on the premises of the distillery, mini-distillery, or micro-  
6 distillery, and except for a distillery, mini-distillery, or micro-distillery that obtains a private  
7 manufacturer club license set forth in §60-7-1 *et seq.* of this code, and a Class A retail dealer  
8 license set forth in §11-16-1 *et seq.* of the code: *Provided*, That a licensed distillery, mini-distillery,  
9 or micro-distillery may offer complimentary samples of alcoholic liquors as authorized by this  
10 subsection when alcoholic liquors are manufactured by that licensed distillery, mini-distillery, or  
11 micro-distillery for consumption on the licensed premises. Notwithstanding any other provision of  
12 law to the contrary, a licensed distillery, mini-distillery, or micro-distillery may sell, furnish, and  
13 serve alcoholic liquors when licensed accordingly beginning at 6:00 a.m. unless otherwise  
14 determined by the residents of the county pursuant to §7-1-3ss of this code.

15 (2) To a licensee under §60-7-1 *et seq.* of this code when the licensed operation is within  
16 10 miles of the distillery, mini-distillery, or micro-distillery.

17 (b) Retail on-premises and off-premises consumption sales. — Every licensed distillery,  
18 mini-distillery, or micro-distillery shall comply with the provisions of §60-3A-9, §60-3A-11, §60-3A-  
19 13, §60-3A-16, §60-3A-17, §60-3A-18, §60-3A-19, §60-3A-22, §60-3A-23, §60-3A-24, §60-3A-

20 25, and §60-3A-26 of this code, and the provisions of §60-3-1 *et seq.*, §60-4-1 *et seq.*, and §60-7-  
21 1 *et seq.* of this code, applicable to liquor retailers, and distillers. In the interest of promoting  
22 tourism throughout the state, every licensed distillery, mini-distillery, or micro-distillery  
23 manufacturing liquor in this state is authorized, with a limited off-site retail privilege at private fairs  
24 and festivals, for on-premises consumption sales served by the drink or glass, and off-premises  
25 consumption sales by the bottle of only the licensed distillery, mini-distillery, or micro-distillery's  
26 sealed liquor. At least five days prior to an approved private fair and festival, an authorized  
27 distillery, mini-distillery, or micro-distillery shall provide a copy of a written agreement to sell only  
28 liquor manufactured by the licensed distillery, mini-distillery, or micro-distillery at the private fair  
29 and festival's licensed premises. If approved, an authorized distillery, mini-distillery, or micro-  
30 distillery may conduct on-premises and off-premises consumption sales of its liquor from a  
31 designated booth at the private fair and festival as set forth in §60-7-8a of this code. All authorized  
32 and approved distilleries, mini-distilleries, and micro-distilleries' off-premises consumption sales  
33 shall comply with all retail requirements in §60-3A-1 *et seq.* of this code, and specifically §60-3A-  
34 17 of this code with respect to all markups, taxes, and fees and also all retail requirements of §60-  
35 7-1 *et seq.* of this code when applicable. Additionally, every authorized distillery, mini-distillery, and  
36 micro-distillery may provide complimentary samples to patrons who are 21 years of age and older  
37 and who are not intoxicated. The complimentary liquor samples of the licensed distillery, mini-  
38 distillery, or micro-distillery's product on any sampling day shall not exceed six ounces in total  
39 volume. Samples may be mixed with each other or with non-alcoholic liquids as long as the total  
40 amount of the liquor sampled does not exceed six ounces.

41 (c) Payment of taxes and fees. — The distillery, mini-distillery, or micro-distillery shall pay  
42 all taxes and fees required of licensed retailers and meet applicable licensing provisions as  
43 required by this chapter and by rule of the commissioner, except for payments of the wholesale  
44 markup percentage and the handling fee provided by rule of the commissioner: *Provided*, That all  
45 liquor for sale to customers and licensees under §60-7-1 *et seq.* of this code, as allowed by §60-4-

46     3a(a)(2), from the distillery, mini-distillery, or micro-distillery for off-premises consumption is  
47     subject of a five percent wholesale markup fee and an 80 cents per case bailment fee to be paid to  
48     the commissioner: *Provided, however,* That liquor sold by the distillery, mini-distillery, or micro-  
49     distillery shall not be priced less than the price set by the commissioner pursuant §60-3A-17 of this  
50     code.

51             (d) Payments to market zone retailers. — Each distillery, mini-distillery, or micro-distillery  
52     shall submit to the commissioner two percent of the gross sales price of each retail liquor sale for  
53     the value of all sales at the distillery, mini-distillery, or micro-distillery each month. Any sales by a  
54     distillery, mini-distillery, or micro-distillery at a private fair and festival are treated as occurring on  
55     their licensed premises for purposes of this market zone calculation. This collection shall be  
56     distributed by the commissioner, at least quarterly, to each market zone retailer located in the  
57     distillery, mini-distillery, or micro-distillery's market zone, proportionate to each market zone  
58     retailer's annual gross prior years pretax value sales. The maximum amount of market zone  
59     payments that a distillery, mini-distillery, or micro-distillery shall submit to the commissioner is  
60     \$15,000 per annum.

61             (e) Limitations on licensees. — A distillery, mini-distillery, or micro-distillery may not  
62     produce more than 50,000 gallons per calendar year. The commissioner may issue more than one  
63     distillery, mini-distillery, or micro-distillery license to a single person or entity and a person may  
64     hold both a distillery and a mini-distillery license. The owners of a licensed distillery, mini-distillery,  
65     or micro-distillery may operate a winery, farm winery, brewery, or as a resident brewer as  
66     otherwise specified in the code.

67             (f) Building code and tax classification. — Notwithstanding any provision of this code to the  
68     contrary, the mere addition of a distillery, mini-distillery, or micro-distillery licensed under this  
69     article on a property does not change the nature or use of the property which otherwise qualifies as  
70     agricultural use for building code and property tax classification purposes.

71             (g) A political subdivision of this state may not regulate any of the following activities of a

72 distillery, mini-distillery, or micro-distillery licensed and operating in accordance with this section:

73 (1) The on-premises sale, tasting, or consumption of liquor during business hours set forth

74 in §60-7-12 of this code;

75 (2) The storage, warehousing, and wholesaling of liquor in accordance with the rules of the

76 commissioner and federal law or regulations; or

77 (3) The sale of liquor related items including but not limited to the sale of pre-packaged

78 food not requiring kitchen preparation that are incidental to the sale of liquor and on-premises

79 consumption.

**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 article three-a of this chapter, except that the licensees:

5 (A) Licensees may purchase those wines permitted to be sold at retail pursuant to article

6 eight of this chapter from those distributors licensed pursuant to said article at the same prices the

7 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)(2) 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 sections twelve and thirteen, article

12 six of this chapter shall not apply to the transportation of that alcoholic liquor.

13 (b) In all reports filed under section sixteen, article fifteen, chapter eleven of this code, retail

14 licensees licensed under the provisions of article three-a of this chapter shall separately identify

15 the amount of sales tax on sales of liquor to licensees in the manner required by the Tax

16 Commissioner.

17 (c) Notwithstanding the provisions of section thirty, article fifteen, chapter eleven of this  
18 code to the contrary, the amount of the sales taxes collected by the Tax Commissioner shall be  
19 deposited in a revolving fund account in the State Treasurer's office, designated the "drunk driving  
20 prevention fund", and administered by the commission on drunk driving prevention, subject to  
21 appropriations by the 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.