

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Senate Bill 1065

By Senator Rucker

[Reported February 25, 2026, from the Committee on
Finance]

1 A BILL to amend and reenact §11-16-6b, §11-16-6c, §11-16-9, §11-16-11a, §17C-5D-3, §60-2-
2 17b, §60-3A-12, §60-3A-17, §60-3A-19, §60-4-3a, §60-4-3b, §60-7-2, §60-7-2a, §60-7-6,
3 §60-7-8b, §60-7-8d, §60-7-8e, §60-7-8f, §60-7-8g, §60-7-15, §60-8-2, §60-8-3, §60-8-3a,
4 §60-8-6a, §60-8-6b, §60-8-6c, §60-8-6d, §60-8-6g, §60-8-16, §60-8-32, §60-8-34, and
5 §60-8A-5 of the Code of West Virginia, 1931, as amended; and to repeal §60-7-8c, relating
6 to nonintoxicating beer and nonintoxicating craft beer, wine, liquor, and private club license
7 consolidation and reform; eliminating the nonintoxicating beer growler fee for brewpubs,
8 Class A and Class B retail dealers, private club types, and Class or Class B retail
9 licensees; eliminating the license fee for curbside sales via an application for Class B retail
10 dealers that are grocery stores; eliminating the proration of the Class A and Class B retail
11 dealer's license fees; establishing a license fee for Class A and Class B retail dealers;
12 eliminating the two-year operational requirement for social, fraternal, and for-profit private
13 clubs; permitting Class A retail dealers to apply for up to six free nonintoxicating beer
14 floorplan extensions per year; establishing a fee for additional nonintoxicating beer
15 floorplan extensions; permitting Class A and Class B retail dealers to conduct limited
16 nonintoxicating beer or nonintoxicating craft beer sampling for no additional fee; adding a
17 pedal bike and chartered bus to the existing open container law exemption; clarifying the
18 licenses covered by the wine and liquor operating fund; adding Class B off-premises
19 nonintoxicating beer and wine licenses to a retail liquor outlet for no additional fee and
20 subject to meeting requirements; establishing a retail liquor outlet license fee; permitting a
21 retail liquor outlet to sell stagnant liquor below cost in certain instances; permitting persons
22 who lawfully purchase a barrel or barrels of liquor from a distillery, mini-distillery, or micro-
23 distillery to transport the liquor under certain conditions; removing the five percent markup
24 for a distillery, mini-distillery, or micro-distillery; permitting a distillery, mini-distillery, or
25 micro-distillery to self-distribute its manufactured liquor to Class A private venues located
26 in their market zones or contiguous market zones for no additional fee; permitting a

27 distillery, mini-distillery, or micro-distillery in certain circumstances to jump a landlocked
28 market zone, as approved by the commissioner; permitting a winery or farm winery to
29 operate a private wine venue or private venue - alcohol manufacturer when meeting
30 requirements; authorizing fraternal private clubs, other private clubs, and other private club
31 types; eliminating the private hotel license, requirements, and fee; eliminating the private
32 resort hotel license, requirements, and fee; setting requirements and fee for a private
33 accommodation license for hotels, resort hotels, bed and breakfasts, and short-term
34 rentals; eliminating the private golf club license, requirements, and fee; eliminating the
35 private golf course license, requirements, and fee; eliminating the private tennis club
36 license, requirements, and fee; eliminating the private college sports stadium license,
37 requirements, and fee; eliminating the private professional sports stadium license,
38 requirements, and fee; eliminating the private multi-sport complex license, requirements,
39 and fee; eliminating the private coliseum or center license, requirements, and fee; setting
40 requirements and fee for a private sports venue license for golf, tennis, racket sports,
41 colleges sports, professional sports, multi-sport, and coliseum/center venues; eliminating
42 the private cigar shop license, requirements, and fee; repealing the multi-vendor private
43 fair and festival license, requirements, and fee; eliminating the private bakery license,
44 requirements, and fee; eliminating the private caterer license, requirements, and fee;
45 eliminating the private club bar license, requirements, and fee; eliminating the private club
46 restaurant license, requirements, and fee; eliminating the private wedding venue or barn
47 license, requirements, and fee; eliminating the private food truck license, requirements,
48 and fee; eliminating the private food court license, requirements, and fee; eliminating the
49 private manufacturer club license, requirements, and fee; eliminating the private farmers
50 market license, requirements, and fee; eliminating the "private fair and festival" definition;
51 setting requirements and fee for a private venue license for a bakery, caterer with a
52 restaurant, bar, restaurant, wedding venue or barn, food truck, food court, farmers market,

53 and alcohol manufacturer; requiring all private club types, private wine venues, and
54 taverns to use an approved age verification system; permitting dual licensing requirements
55 for a private venue - coliseum or center; removing the proration of private club type license
56 fees; permitting a private venue - restaurant to conduct a one -day charitable rare, antique,
57 or vintage liquor auction subject to certain requirements; clarifying requirements for private
58 club types to conduct outdoor dining and outdoor street dining; clarifying authority of
59 private venue – restaurants and private venue – alcohol manufacturers to sell craft cocktail
60 growlers for off-premises consumption and eliminating the fee; permitting private venue –
61 restaurants and private venue – alcohol manufacturers to deliver craft cocktail growlers for
62 no additional fee; permitting a Class A on-premises licensee who has a qualified permit to
63 operate in a private outdoor designated area to also operate an approved pedal bike within
64 private outdoor designated area for no additional fee; permitting a Class A private club or
65 private club type to sell nonintoxicating beer or nonintoxicating craft beer, subject to
66 meeting requirements, for no additional license fee; clarify wine distributor license
67 definition; clarify wine retailer definition, license, requirements and fee; eliminate wine
68 specialty shop license, requirements, and fee; eliminate private wine restaurant license,
69 requirements, and fee; eliminate private wine bed and breakfast license, requirements,
70 and fee; eliminate private wine spa license, requirements, and fee; establishing a private
71 wine venue license, requirements, and fee for restaurants, spas, bed and breakfasts, and
72 short term rentals; clarifying the wine retailer license may include the sale of special wines;
73 adding retailer requirements to sell special wines; including the sale of nonintoxicating
74 beer with any Class A or Class B wine license, respectively, for no additional fee; clarifying
75 wine club requirements and privileges for no fee; permitting limited off-premises wine sales
76 at a private wine venue – restaurant; permitting patrons to carry wine on to a private wine
77 venue - restaurant license when permitted by a licensee who charges a corkage fee;
78 clarifying the re-corking and resealing of unconsumed wine subject to requirements;

79 authorizing a wine retailer with special wines to conduct wine tastings and samplings
80 subject to requirements; clarifying a wine retailer that is a grocery store may sell wine via
81 an application for curbside pickup at the retailer's location; clarifying wine direct shipper
82 prohibitions; permitting a wine retailer with special wines to deliver wine with a gift basket
83 subject to requirements; permitting wineries and farm wineries to sell wine growlers
84 subject to certain requirements; eliminating proration of wine licenses; permitting wine
85 retailers, private wine venues, Class B retail dealers, private venue - restaurants, private
86 venue - alcohol manufacturers, Class A retail licensees, and Class B retail licensees to sell
87 wine growlers subject to certain requirements, for no additional fee; permitting a licensed
88 Class A private wine venue to operate a separate but connected Class B wine retailer,
89 subject to certain requirements; clarifying license requirements for grocery stores,
90 retailers, private wine venues, or private club types; clarifying wine distributor license
91 requirements; clarifying when retail sale are prohibited or hours of operation; and
92 permitting wineries and farm wineries to sell hard cider in wine growlers when licensed as a
93 private wine venue or private venue alcohol manufacturer for no additional fee.

Be it enacted by the Legislature of West Virginia:

CHAPTER 11. TAXATION.

ARTICLE 16. NONINTOXICATING BEER.

§11-16-6b. Brewpub, Class A retail dealer, Class B retail dealer, private club type, Class A retail licensee, and Class B retail licensee's authority to sell growlers.

1 (a) Legislative findings. — The Legislature hereby finds that it is in the public interest to
2 regulate, control, and support the brewing, manufacturing, distribution, sale, consumption,
3 transportation, and storage of nonintoxicating beer and nonintoxicating craft beer and its industry
4 in this state in order to protect the public health, welfare, and safety of the citizens of this state and
5 promote hospitality and tourism. Therefore, this section authorizes a licensed brewpub, Class A

6 retail dealer, Class B retail dealer, private club type, Class A retail licensee, or Class B retail
7 licensee to have certain abilities in order to promote the sale of nonintoxicating beer and
8 nonintoxicating craft beer manufactured in this state for the benefit of the citizens of this state, the
9 state's growing brewing industry, and the state's hospitality and tourism industry, all of which are
10 vital components for the state's economy.

11 (b) Sales of nonintoxicating beer. — A licensed brewpub, Class A retail dealer, Class B
12 retail dealer, private club type, Class A retail licensee, or Class B retail licensee who pays the fee
13 in subsection (i) of this section and meets the requirements of this section may offer
14 nonintoxicating beer or nonintoxicating craft beer for retail sale to patrons from their licensed
15 premises in a growler for personal consumption only off of the licensed premises and not for
16 resale. Prior to the sale, the licensee shall verify, using proper identification, that any patron
17 purchasing nonintoxicating beer or nonintoxicating craft beer is 21 years of age or over and that
18 the patron is not visibly intoxicated. A licensee authorized under this section may not sell, give or
19 furnish alcoholic liquors, including wine, for consumption off of its licensed premises, unless it is a
20 private club type licensed to sell sealed wine for consumption off of the licensed premises and
21 meets the requirements set out in §60-8-3(j) and §60-8-3(l) of this code, for the sale of wine, not
22 liquor.

23 (c) Retail sales. — Every licensee authorized under this section shall comply with all the
24 provisions of this article as applicable to nonintoxicating beer retailers when conducting sales of
25 nonintoxicating beer or nonintoxicating craft beer and shall be subject to all applicable
26 requirements and penalties in this article.

27 (d) Payment of taxes and fees. — A licensee authorized under this section shall pay all
28 taxes and fees required of licensed nonintoxicating beer retailers, in addition to any other taxes
29 and fees required, and meet applicable licensing provisions as required by this chapter and by rule
30 of the commissioner.

31 (e) Advertising. — A licensee authorized under this section may advertise a particular
32 brand or brands of nonintoxicating beer or nonintoxicating craft beer and the price of the
33 nonintoxicating beer or nonintoxicating craft beer subject to state and federal requirements or
34 restrictions. The advertisement may not encourage intemperance.

35 (f) Growler requirements. — A licensee authorized under this section must fill a growler
36 and patrons are not permitted to access the secure area or fill a growler. A licensee authorized
37 under this section must sanitize, fill, securely seal, and label any growler prior to its sale. A
38 licensee authorized under this section may only offer for retail sale growlers no larger than 128
39 fluid ounces of nonintoxicating beer or nonintoxicating craft beer for personal consumption off of
40 the licensed premises and not for resale. A licensee under this section may refill a growler subject
41 to the requirements of this section. A licensee shall visually inspect any growler before filling or
42 refilling it. A licensee may not fill or refill any growler that appears to be cracked, broken, unsafe, or
43 otherwise unfit to serve as a sealed beverage container.

44 (g) Growler labeling. — A licensee authorized under this section selling growlers shall affix
45 a conspicuous label on all sold and securely sealed growlers listing the name of the licensee
46 selling the growler, the brand of the nonintoxicating beer or nonintoxicating craft beer in the
47 growler, the alcohol content by volume of the nonintoxicating beer or nonintoxicating craft beer in
48 the growler, and the date the growler was filled or refilled, and, further, all labeling on the growler
49 shall be consistent with all federal labeling and warning requirements.

50 (h) Growler sanitation. — A licensed brewer or resident brewer authorized under this
51 section shall clean and sanitize all growlers he or she fills or refills in accordance with all state and
52 county health requirements prior to its sealing. In addition, the licensed brewer or resident brewer
53 shall sanitize, in accordance with all state and county health requirements, all taps, tap lines, pipe
54 lines, barrel tubes, and any other related equipment used to fill or refill growlers. Failure to comply
55 with this subsection may result in penalties under §11-16-23 of this code.

56 (i) Fees. — Commencing ~~July 1, 2015, and every July 1 thereafter~~ July 1, 2026, there is an
57 no annual \$100 nonrefundable fee for a licensee. except for a licensed brewpub, to sell growlers
58 as provided by this section. The licensee must be in good standing with the state at the time of
59 paying the fee application and renewal.

60 (j) Complimentary samples. — A licensee authorized under this section may provide
61 complimentary samples, which may be no greater than one ounce per sample and a sampling
62 shall not exceed three different nonintoxicating beer or nonintoxicating craft beer complimentary
63 one-ounce samples per patron per day. A licensee authorized under this section providing
64 complimentary samples shall, prior to any sampling, verify, using proper identification, that the
65 patron sampling is 21 years of age or over and that the patron is not visibly intoxicated. All
66 nonintoxicating beer and nonintoxicating craft beer utilized for sampling purposes must be
67 purchased from the licensee's inventory.

68 (k) Limitations on licensees. — A licensee under this section may only sell growlers during
69 the hours of operation set forth in §11-16-18(a)(1) of this code. Any licensee licensed under this
70 section must maintain a secure area for the sale of nonintoxicating beer or nonintoxicating craft
71 beer in a growler. The secure area must only be accessible by the licensee. Any licensee licensed
72 under this section shall be subject to the applicable penalties under §11-16-23 of this code for
73 violations of this section.

74 (l) Nonapplicability of certain statutes. — Notwithstanding any other provision of this code
75 to the contrary, licensees under this section are permitted to break the seal of the original container
76 for the limited purpose of filling a growler or providing complimentary samples as provided in this
77 section. Any unauthorized sale of nonintoxicating beer or nonintoxicating craft beer or any
78 consumption not permitted on the licensee's licensed premises is subject to penalties under this
79 article.

80 (m) Rules. — The commissioner is authorized to propose rules for legislative approval,
81 pursuant to §29A-3-1 *et seq.* of this code, to implement this section.

§11-16-6c. Class B retail dealer which is a grocery store, mobile application, or web-based sales privilege permit; fee.

1 (a) A Class B retail dealer who is licensed to sell nonintoxicating beer or nonintoxicating
2 craft beer and who operates a grocery store containing over \$100,000 of fresh produce and
3 saleable food and food products fit for human consumption in a combination of displayed and
4 stored inventory may apply for a Class B license privilege granting the licensee the ability to
5 complete the sale of such nonintoxicating beer or nonintoxicating craft beer in the original sealed
6 container for off-premises consumption to a person purchasing the nonintoxicating beer or
7 nonintoxicating craft beer from a vehicle:

8 (1) If the vehicle is parked in a licensed parking area which is contiguous to the Class B
9 licensee's licensed premises; or

10 (2) If the vehicle is parked in a licensed parking area which is within 500 feet of the Class B
11 licensee.

12 (b) The parking area referenced in subsection (a) of this section shall be designated by
13 signage solely for the use of persons who have previously ordered items including, but not limited
14 to, nonintoxicating beer or nonintoxicating craft beer using a mobile application or web-based
15 software program.

16 (c) No nonintoxicating beer or nonintoxicating craft beer may be loaded into a vehicle
17 under this section unless the Class B licensee or such licensee's staff have verified that both the
18 person placing the order, and, if different from the person placing the order, the person picking up
19 the order are 21 years of age or older and not noticeably intoxicated; and

20 (d) To operate under this section, a Class B retail dealer licensee must be in good standing
21 with the commissioner, apply, qualify, ~~pay the Class B license privilege fee~~ and obtain the permit
22 for the Class B licensee privilege for nonintoxicating beer or nonintoxicating craft beer sales at a
23 designated parking area. ~~The~~ Beginning July 1, 2026, the Class B license privilege permit
24 ~~nonrefundable and non-prorated annual fee is \$250~~ has no annual fee. For purposes of criminal

25 enforcement of the provisions of this article, persons placing orders and picking up orders are
26 deemed to be purchasers.

27 (e) The licensee shall be subject to all requirements, penalties, and sanctions of this article.

**§11-16-9. Amount of license tax; Class A and Class B retail dealers; purchase and sale of
nonintoxicating beer permitted; distributors; brewers; brewpubs.**

1 (a) All retail dealers, distributors, brewpubs, brewers, and resident brewers of
2 nonintoxicating beer and of nonintoxicating craft beer shall pay an annual fee to maintain an active
3 license as required by this article. The license period begins on July 1 of each year and ends on
4 June 30 of the following year: ~~If the license is granted for a shorter period, then the license fee shall~~
5 ~~be computed semiannually in proportion to the remainder of the fiscal year: *Provided*, That if a~~
6 licensee fails to complete a renewal application and make payment of its annual license fee in
7 renewing its license on or before June 30 of any subsequent year, then an additional \$150
8 reactivation fee shall be charged and paid by the licensee; the fee may not be prorated or
9 refunded, prior to the processing of any renewal application and applicable full year annual license
10 fee; and furthermore, a licensee who continues to operate after the expiration of its license is
11 subject to all fines, penalties, and sanctions available in §11-16-23 of this code, all as determined
12 by the commissioner.

13 (b) The annual license fees are as follows:

14 (1) Retail dealers shall be divided into two classes: Class A and Class B.

15 (A) For a Class A retail dealer, the license fee is ~~\$150~~ \$500 for each place of business: ~~the~~
16 ~~license fee for social, fraternal, or private clubs not operating for profit, and which have been in~~
17 ~~continuous operation for two years or more immediately preceding the date of application, is \$150:~~
18 *Provided*, That railroads operating in this state may dispense nonintoxicating beer upon payment
19 of an annual license tax of \$10 for each dining, club, or buffet car in which the beer is dispensed.

20 Class A licenses issued for railroad dining, club, or buffet cars authorize the licensee to sell
21 nonintoxicating beer at retail for consumption only on the licensed premises where sold. All other

22 Class A licensees may sell nonintoxicating beer or nonintoxicating craft beer at retail, as licensed,
23 for consumption on the licensed premises or off the licensed premises. Class A licensees may sell
24 nonintoxicating beer or nonintoxicating craft beer for consumption off the licensed premises when
25 it is in a sealed original container and sold for personal use, and not for resale. Class A licensees
26 shall provide prepared food or meals along with sealed nonintoxicating beer or nonintoxicating
27 craft beer in the original container or in a sealed growler as set forth for sales and service in §11-
28 16-6d of this code, to a purchasing person who is in-person or in-vehicle picking up prepared food
29 or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer orders-to-go, subject to
30 verification that the purchasing person is 21 years of age or older, and not visibly or noticeably
31 intoxicated, and as otherwise specified in this article.

32 (B) For a Class B retail dealer, the license fee, authorizing the sale of both chilled and
33 unchilled beer, is ~~\$150~~ \$250 for each place of business. A Class B license authorizes the licensee
34 to sell nonintoxicating beer at retail in bottles, cans, or other sealed containers only, and only for
35 consumption off the licensed premises. A Class B retailer may sell to a purchasing person, for
36 personal use, and not for resale, quantities of draught beer in original containers that are no larger
37 in size than one-half barrel for off-premises consumption. The commissioner may only issue a
38 Class B license to the proprietor or owner of a grocery store. For the purpose of this article, the
39 term "grocery store" means any retail establishment commonly known as a grocery store or
40 delicatessen, and caterer or party supply store, where food or food products are sold for
41 consumption off the premises, and includes a separate and segregated portion of any other retail
42 store which is dedicated solely to the sale of food, food products, and supplies for the table for
43 consumption off the premises. Caterers or party supply stores shall purchase the appropriate
44 licenses from the Alcohol Beverage Control Administration.

45 (C) A Class A retail dealer may contract, purchase, or develop a mobile ordering
46 application or web-based software program to permit the ordering and purchase of nonintoxicating
47 beer or nonintoxicating craft beer, as authorized by the licensee's license. The nonintoxicating

48 beer or nonintoxicating craft beer shall be in a sealed original container or a sealed growler and
49 meet the requirements of §11-16-6d of this code.

50 (2) For a distributor, the license fee is \$1,000 for each place of business.

51 (3) For a brewer or a resident brewer with its principal place of business or manufacture
52 located in this state and who produces:

53 (A) Twelve thousand five hundred barrels or less of nonintoxicating beer or nonintoxicating
54 craft beer, the license fee is \$250 for each place of manufacture, and no more than three places of
55 manufacture are permitted for licensure;

56 (B) Twelve thousand five hundred one barrels and up to 25,000 barrels of nonintoxicating
57 beer or nonintoxicating craft beer, the license fee is \$1,000 for each place of manufacture, and no
58 more than five places of manufacture are permitted for licensure;

59 (C) More than 25,001 barrels of nonintoxicating beer or nonintoxicating craft beer, the
60 license fee is \$1,500 for each place of manufacture.

61 (D) A brewer or resident brewer licensed under paragraph (A) or (B) of this subdivision
62 shall receive one license for use at all places of manufacture; each place of manufacture shall
63 meet all licensing requirements in this article and the rules; and all places of manufacture shall be
64 noted on the one brewer or resident brewer license in compliance with §11-16-5 and §11-16-6a(k)
65 of this code.

66 (4) For a brewer whose principal place of business or manufacture is not located in this
67 state, the license fee is \$1,500. The brewer is exempt from the requirements set out in subsections
68 (c), (d), and (e) of this section: *Provided*, That a brewer whose principal place of business or
69 manufacture is not located in this state that produces less than 25,000 barrels of nonintoxicating
70 beer or nonintoxicating craft beer may choose to apply, in writing, to the commissioner to be
71 subject to the variable license fees of subdivision (3), subsection (b) of this section and the
72 requirements set out in subsections (c), (d), and (e) of this section subject to investigation and
73 approval by the commissioner as to brewer requirements.

74 (5) For a brewpub, the license fee is \$500 for each place of manufacture.

75 (c) As part of the application or renewal application and in order to determine a brewer or
76 resident brewer's license fee pursuant to this section, a brewer or resident brewer shall provide the
77 commissioner, on a form provided by the commissioner, with an estimate of the number of
78 nonintoxicating beer or nonintoxicating craft beer barrels and gallons it may produce during the
79 year based upon the production capacity of the brewer's or resident brewer's manufacturing
80 facilities and the prior year's production and sales volume of nonintoxicating beer or
81 nonintoxicating craft beer.

82 (d) On or before July 15 of each year, every brewer or resident brewer who is granted a
83 license shall file a final report, on a form provided by the commissioner, that is dated as of June 30
84 of that year, stating the actual volume of nonintoxicating beer or nonintoxicating craft beer in
85 barrels and gallons produced at its principal place of business and other sites of manufacture
86 during the prior year.

87 (e) If the actual total production of nonintoxicating beer or nonintoxicating craft beer by the
88 brewer or resident brewer exceeded the brewer's or resident brewer's estimate that was filed with
89 the application or renewal application for a brewer's or resident brewer's license for that period,
90 then the brewer or resident brewer shall include a remittance for the balance of the license fee
91 pursuant to this section that would be required for the final, higher level of production.

92 (f) Any brewer or resident brewer failing to file the reports required in subsections (c) and
93 (d) of this section, and who is not exempt from the reporting requirements, shall, at the discretion
94 of the commissioner, be subject to the penalties set forth in §11-16-23 of this code.

95 (g) Notwithstanding subsections (a) and (b) of this section, the license fee per event for a
96 nonintoxicating beer floor plan extension is free for up to six separate floor plan extension events
97 per year, after reaching six events in a year, for any subsequent events the fee is \$50 per every
98 floor plan extension for the rest of the year, and the fee may not be prorated or refunded. A
99 licensee shall submit an application, certification that the event meets certain requirements in this

100 code and rules, and any other information required by the commissioner, at least 15 days prior to
101 the event, all as determined by the commissioner.

102 (h) Notwithstanding subsections (a) and (b) of this section, a Class A retail dealer, in good
103 standing with the commissioner, may apply, on a form provided by the commissioner, to sell,
104 serve, and furnish nonintoxicating beer or nonintoxicating craft beer for on-premises consumption
105 in an outdoor dining area or outdoor street dining area, as authorized by any municipal
106 government or county commission in the which the licensee operates. The Class A retail dealer
107 shall submit to the municipal government or county commission, for approval, a revised floorplan
108 and a request to sell and serve nonintoxicating beer or nonintoxicating craft beer, subject to the
109 commissioner's requirements, in an approved outdoor area. For private outdoor street dining, or
110 private outdoor dining, the approved and bounded outdoor area need not be adjacent to the
111 licensee's licensed premises, but in close proximity and under the licensee's control with right of
112 ingress and egress. For purposes of this section, "close proximity" means an available area within
113 150 feet of the Class A retail dealer's licensed premises. A Class A retail dealer may operate a
114 nonintoxicating beer or nonintoxicating craft beer outdoor dining or outdoor street dining in
115 conjunction with a temporary private outdoor dining or temporary private outdoor street dining area
116 set forth in §60-7-8d of this code and temporary private wine outdoor dining or temporary private
117 wine outdoor street dining set forth in §60-8-32a of this code.

118 (i) For purposes of this article, "nonintoxicating beer or nonintoxicating craft beer outdoor
119 dining and nonintoxicating beer or nonintoxicating craft beer outdoor street dining" includes dining
120 areas that are:

121 (1) Outside and not served by an HVAC system for air handling services and use outside
122 air;

123 (2) Open to the air; and

124 (3) Not enclosed by fixed or temporary walls; however, the commissioner may seasonally
125 approve a partial enclosure with up to three temporary or fixed walls. Any area where seating is

126 incorporated inside a permanent building with ambient air through HVAC is not considered outdoor
127 dining pursuant to this subsection.

§11-16-11a. Nonintoxicating beer sampling.

1 (a) Notwithstanding any provision of this code to the contrary, a Class A retail licensee, ~~or~~
2 Class B retail licensee, Class A Retail Dealer, or Class B Retail Dealer may, with the written
3 approval of the commissioner, conduct a nonintoxicating beer sampling event on a designated
4 nonintoxicating beer sampling day.

5 (b) At least five business days prior to the nonintoxicating beer sampling, the Class A retail
6 licensee, ~~or~~ Class B retail licensee, Class A Retail Dealer, or Class B Retail Dealer shall submit a
7 written proposal to the commissioner requesting to hold a nonintoxicating beer sampling event,
8 including:

9 (1) The day of the event;

10 (2) The location of the event;

11 (3) The times for the event;

12 (4) The names of up to three specific brands, types, and flavors, if any, of the
13 nonintoxicating beer to be sampled; and

14 (5) A statement indicating that all the nonintoxicating beer brands have been registered
15 and approved for sale in the state by the commissioner.

16 (c) Upon approval by the commissioner, a Class A retail licensee, ~~or~~ Class B retail
17 licensee, Class A Retail Dealer, or Class B Retail Dealer may serve the complimentary
18 nonintoxicating beer samples of the approved brands, types, and flavors that are purchased by ~~the~~
19 a Class A retail licensee, ~~or~~ Class B retail licensee, Class A Retail Dealer, or Class B Retail Dealer
20 with all taxes paid, from its inventory.

21 (d) The complimentary nonintoxicating beer sample on any nonintoxicating beer sampling
22 day shall not exceed:

23 (1) Three separate and individual sample servings per brand, type, and flavor per customer
24 verified to be 21 years of age or older; and

25 (2) Four ounces in total volume per brand, type, and flavor.

26 (e) Servers at the nonintoxicating beer sampling event shall:

27 (1) Be employees of the ~~Class A retail licensee or Class B retail licensee~~;

28 (2) Be at least 21 years of age or older; and

29 (3) Have specific knowledge of the nonintoxicating beer being sampled to convey to the
30 customer.

31 (f) All servers at the nonintoxicating beer sampling event shall verify the age of the
32 customer sampling nonintoxicating beer by requiring and reviewing proper forms of identification.

33 Servers at the nonintoxicating beer event may not serve any person who is:

34 (1) Under the age of 21 years; or

35 (2) Intoxicated.

36 (g) A nonintoxicating beer sampling event shall:

37 (1) Occur only inside the ~~Class A retail licensee's or Class B retail~~ authorized licensee's
38 licensed premises; and

39 (2) Cease on or before 9:00 p.m. on any approved nonintoxicating beer sampling day.

40 (h) Any nonintoxicating beer bottle or can used for sampling must be from the inventory of
41 the licensee, and clearly and conspicuously labeled "SAMPLE, NOT FOR RESALE". If the seal is
42 broken on any nonintoxicating beer bottle or can, or if any nonintoxicating beer bottle or can is
43 opened, then that nonintoxicating beer bottle or can must be removed from the licensed premises
44 immediately following the event.

45 (i) Violations of this section are subject to the civil and criminal penalties set forth in §11-16-
46 18, §11-16-19, §11-16-20, §11-16-22, §11-16-23, §11-16-24, and §11-16-25 of this code.

47 (j) To implement the provisions of this section, the commissioner may promulgate
48 emergency rules pursuant to the provisions of §29a-3-1 of this code or propose rules for legislative
49 approval in accordance with the provisions of §29a -3-1 *et seq.* of this code.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 5D. OPEN CONTAINER LAWS.

§17C-5D-3. Possession of an open alcoholic beverage container in the passenger area of a motor vehicle; exceptions; penalties.

1 (a) It is unlawful for the operator or a passenger of a motor vehicle to consume any
2 alcoholic beverage in the passenger area of a motor vehicle located on a public highway or right-
3 of-way of a public highway in this state, whether the vehicle is in motion or at rest.

4 (b) It is unlawful for the operator or a passenger of a motor vehicle to knowingly possess
5 any open alcoholic beverage container in the passenger area of any motor vehicle that is located
6 on a public highway or right-of-way of a public highway in this state, whether the vehicle is in
7 motion or at rest. Possession by a person of one or more open containers in a single criminal
8 occurrence is a single offense.

9 (c) The provisions of this section are not applicable to a passenger:

10 (1) In the passenger area of a motor vehicle designed, maintained or used primarily for the
11 transportation of persons for compensation including, but not limited to, a bus, taxicab, pedal bike,
12 chartered bus, or limousine; or

13 (2) In the living quarters of a motorized or nonmotorized house coach, house trailer, motor
14 home or self-contained camper.

15 (d) A person who violates the provisions of subsection (a) or (b) of this section is guilty of a
16 misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$100.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 2. ALCOHOL BEVERAGE CONTROL COMMISSIONER.

1 **§60-2-17b. Wine and liquor operating fund established; operations fee; fund issues.**

2 (a) As of July 1, 2019, there is an annual nonrefundable and nonprorated operational fee of
3 \$100 for all distilleries, mini-distilleries, wineries, farm wineries, Class A retail licensees, Class B
4 retail licensees, private clubs club types, private wine retailers, wine specialty shops, wine
5 restaurants, private wine spas, private wine venues, ~~bed and breakfasts~~, wine suppliers, and wine
6 distributors which shall be paid on or before July 1, 2019, and every July 1 thereafter. All fees
7 collected by the commissioner pursuant to this section shall be deposited in a special revenue
8 account in the State Treasury, hereby created, to be known as the Wine and Liquor Operations
9 Fund. Moneys in the fund may only be expended by the commissioner for the administration of
10 this chapter, as appropriated by law.

11 (b) Licensees holding multiple licenses for nonintoxicating beer, nonintoxicating craft beer,
12 wine, or liquor shall be subject to paying only one operations fee of \$100 under this chapter and
13 under §11-16-10(d) of this code.

ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.

§60-3A-12. Annual retail license fee; expiration and renewal of retail licenses.

1 (a) The annual retail license period is from July 1 to June 30 of the following year. The
2 annual retail license fee for a Class A or Class B retail license is ~~\$2,000~~ \$3,000. ~~The annual retail~~
3 ~~license fee for the initial year of issuance shall be prorated based on the number of days remaining~~
4 ~~between the date of issuance and the following June 30. Notwithstanding the Class B off-premises~~
5 ~~fees set forth in §11-16-1 et seq. of this code, a Class A or Class B retail license includes the sale~~
6 ~~of nonintoxicating beer or nonintoxicating craft beer for off-premises consumption and any other~~
7 ~~nonintoxicating beer or nonintoxicating craft beer services or privileges available to such Class B~~
8 ~~off-premises licenses as set forth in §11-16-1 et seq. of this code for no additional fee but subject to~~
9 ~~all requirements in §11-16-1 et seq. of this code. Further, notwithstanding the Class B off-premises~~
10 ~~fees set forth in §60-8-1 et seq. of this code and §60-8A-1 et seq. of this code, a Class A or Class B~~
11 ~~retail license includes the sale of wine and hard cider for off-premises consumption and any other~~

12 wine or hard cider services or privileges available to such Class B off-premises licenses as set
13 forth in §60-8-1 et seq. and §60-8A-1 et seq. of this code for no additional fee but subject to all
14 requirements in §60-8-1 et seq. and §60-8A-1 et seq. of this code.

15 (b) All retail licenses expire on June 30 of each year and may be renewed only upon the
16 submission to the commissioner of the same information required for the issuance of the license
17 and any additional information requested by the commissioner on the forms and by the date
18 prescribed by the commissioner, together with the payment to the commissioner of the applicable
19 annual retail license fee required under this section.

20 (c) No person may sell liquor at any retail outlet if the retail license applicable to the outlet
21 has been suspended or revoked, or has expired.

22 (d) All retail licenses issued or renewed under the provisions of this article for the period
23 ending June 30, 2010, or on June 30 for any ten-year period thereafter, expire and are of no further
24 force or effect as of July 1, 2010, or as of July 1 every ten years thereafter.

25 (e) Notwithstanding any provision of ~~section eighteen, article four~~ §60-4-18 of this chapter
26 code to the contrary, a municipality may invoke the authority granted by ~~section four, article~~
27 ~~thirteen, chapter eight~~ §8-13-4 of this code to require an annual license from each retail licensee
28 and require payment for the license in amounts not to exceed the amounts provided in subsection
29 (a) of this section.

**§60-3A-17. Wholesale prices set by commissioner; retail licensees to purchase liquor from
state; transportation and storage; method of payment.**

1 (a) The commissioner shall fix wholesale prices for the sale of liquor, other than wine, to
2 retail licensees. The commissioner shall sell liquor, other than wine, to retail licensees according to
3 a uniform pricing schedule. The commissioner shall obtain, if possible, upon request, any liquor
4 requested by a retail licensee and those permitted to manufacture and sell liquor pursuant to §60-
5 4-3 of this code.

6 (b) Wholesale prices shall be established in order to yield a net profit for the General
7 Revenue Fund of not less than \$6,500,000 annually on an annual volume of business equal to the
8 average for the past three years. The net revenue derived from the sale of alcoholic liquors shall
9 be deposited into the General Revenue Fund in the manner provided in §60-3-17 of this code.

10 (c) Notwithstanding any provision of this code to the contrary, the commissioner shall
11 specify the maximum wholesale markup percentage which may be applied to the prices paid by
12 the commissioner for all liquor, other than wine, in order to determine the prices at which all liquor,
13 other than wine, will be sold to retail licensees. A retail licensee shall purchase all liquor, other than
14 wine, for resale in this state only from the commissioner, and the provisions of §60-6-12 and §60-
15 6-13 of this code shall not apply to the transportation of the liquor: *Provided*, That a retail licensee
16 shall purchase wine from a wine distributor who is duly licensed under §60-8-1 *et seq.* of this code.
17 All liquor, other than wine, purchased by retail licensees shall be stored in the state at the retail
18 outlet or outlets operated by the retail licensee: *Provided, however*, That the commissioner, in his
19 or her discretion, may upon written request permit a retail licensee to store liquor at a site other
20 than the retail outlet or outlets.

21 (d) The sale of liquor by the commissioner to retail licensees shall be paid by electronic
22 funds transfer which shall be initiated by the commissioner on the business day following the retail
23 licensees order or by money order, certified check, or cashier's check which shall be received by
24 the commissioner at least 24 hours prior to the shipping of the alcoholic liquors: *Provided*, That if a
25 retail licensee posts with the commissioner an irrevocable letter of credit or bond with surety
26 acceptable to the commissioner from a financial institution acceptable to the commissioner
27 guaranteeing payment of checks, then the commissioner may accept the retail licensee's checks
28 in an amount up to the amount of the letter of credit.

29 (e) (1) A retail licensee may not sell liquor to persons licensed under the provisions of §60-
30 7-1 *et seq.* of this code at less than 115 percent of the retail licensee's cost as defined in §47-11A-6
31 of this code. If a retail licensee can document, by purchase date and invoice submitted along with

32 a written request to the commissioner, that a liquor product, which is still salable and fit for human
33 consumption, has been stagnant for over one years from the purchase date, then, upon meeting
34 the aforesaid requirements and approval by the commissioner, the retail licensee may not sell
35 stagnant liquor to persons licensed under the provisions of §60-7-1 et seq. of this code at less than
36 85 percent of the retail licensee's cost as defined in §47-11A-6 of this code.

37 (2) A retail licensee may not sell liquor to the general public at less than 110 percent of the
38 retail licensee's cost as defined in §47-11A-6 of this code. If a retail licensee can document, by
39 purchase date and invoice submitted along with a written request to the commissioner, that a
40 liquor product, which is still salable and fit for human consumption, has been stagnant for over one
41 year from the purchase date, then, upon meeting the aforesaid requirements and approval by the
42 commissioner, the retail licensee may not sell stagnant liquor to the general public at less than 90
43 percent of the retail licensee's cost as defined in §47-11A-6 of this code.

§60-3A-19. Limitation on amount to be sold.

1 (a) Not more than ten 10 gallons of liquor may be sold by a retail licensee to a person at
2 one time without the approval of the commissioner or his or her representative, but a sale in
3 excess of ten 10 gallons may be made to a religious organization purchasing wine for sacramental
4 purposes: *Provided*, That this section does not apply to purchases by private clubs club types as
5 defined in article seven of this chapter §60-7-1 et seq. of this code.

6 (b) This section does not apply to licensed distilleries, mini-distilleries, or micro-distilleries
7 when selling an entire barrel or barrels of liquor, approved by commissioner, to a person or group
8 of persons who have proof of their purchase while transporting more than 10 gallons of liquor
9 purchased by the person or group of persons from the licensed distilleries, mini-distilleries, or
10 micro-distilleries, subject to the provisions of §60-6-6 of this code.

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

14 (b) Retail on-premises and off-premises consumption sales. — Every licensed distillery,
15 mini-distillery, or micro-distillery shall comply with the provisions of §60-3A-9, §60-3A-11, §60-3A-
16 13, §60-3A-16, §60-3A-17, §60-3A-18, §60-3A-19, §60-3A-22, §60-3A-23, §60-3A-24, §60-3A-
17 25, and §60-3A-26 of this code, and the provisions of §60-3-1 *et seq.*, §60-4-1 *et seq.*, and §60-7-1
18 *et seq.* of this code, applicable to liquor retailers and distillers. In the interest of promoting tourism
19 throughout the state, every licensed distillery, mini-distillery, or micro-distillery manufacturing
20 liquor in this state is authorized, with a limited off-site retail privilege at private fairs and festivals,
21 for on-premises consumption sales served by the drink or glass, and off-premises consumption
22 sales by the bottle of only the licensed distillery, mini-distillery, or micro-distillery's sealed liquor. At
23 least five days prior to an approved private fair and festival, an authorized distillery, mini-distillery,
24 or micro-distillery shall provide a copy of a written agreement to sell only liquor manufactured by
25 the licensed distillery, mini-distillery, or micro-distillery at the private fair and festival's licensed
26 premises. If approved, an authorized distillery, mini-distillery, or micro-distillery may conduct on-

27 premises and off-premises consumption sales of its liquor from a designated booth at the private
28 fair and festival as set forth in §60-7-8a of this code. All authorized and approved distilleries, mini-
29 distilleries, and micro-distilleries' off-premises consumption sales shall comply with all retail
30 requirements in §60-3A-1 *et seq.* of this code, and specifically §60-3A-17 of this code with respect
31 to all markups, taxes, and fees and also all retail requirements of §60-7-1 *et seq.* of this code when
32 applicable. Additionally, every authorized distillery, mini-distillery, and micro-distillery may provide
33 samples to patrons who are 21 years of age and older and who are not intoxicated. The liquor
34 samples of the licensed distillery, mini-distillery, or micro-distillery's product on any sampling day
35 shall not exceed six ounces in total volume. Samples may be mixed with each other or with non-
36 alcoholic liquids as long as the total amount of the liquor sampled does not exceed six ounces.

37 (c) Payment of taxes and fees. — The distillery, mini-distillery, or micro-distillery shall pay
38 all taxes and fees required of licensed retailers and meet applicable licensing provisions as
39 required by this chapter and by rule of the commissioner, ~~except for~~ including payments of the
40 wholesale markup percentage and the handling fee provided by rule of the commissioner:
41 ~~Provided, That all liquor for sale to customers from the distillery, mini-distillery, or micro-distillery~~
42 ~~for off-premises consumption is subject of a five percent wholesale markup fee and an 80 cents~~
43 ~~per case bailment fee to be paid to the commissioner. *Provided, however,* That liquor sold by the~~
44 distillery, mini-distillery, or micro-distillery shall not be priced less than the price set by the
45 commissioner pursuant §60-3A-17 of this code.

46 (d) Payments to market zone retailers. — Each distillery, mini-distillery, or micro-distillery
47 shall submit to the commissioner two percent of the gross sales price of each retail liquor sale for
48 the value of all sales at the distillery, mini-distillery, or micro-distillery each month. Any sales by a
49 distillery, mini-distillery, or micro-distillery at a private fair and festival are treated as occurring on
50 their licensed premises for purposes of this market zone calculation. This collection shall be
51 distributed by the commissioner, at least quarterly, to each market zone retailer located in the
52 distillery, mini-distillery, or micro-distillery's market zone, proportionate to each market zone

53 retailer's annual gross prior years pretax value sales. The maximum amount of market zone
54 payments that a distillery, mini-distillery, or micro-distillery shall submit to the commissioner is
55 \$15,000 per annum.

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

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

66 (g) A political subdivision of this state may not regulate any of the following activities of a
67 distillery, mini-distillery, or micro-distillery licensed and operating in accordance with this section:

68 (1) The on-premises sale, tasting, or consumption of liquor during business hours set forth
69 in §60-7-12 of this code;

70 (2) The storage, warehousing, and wholesaling of liquor in accordance with the rules of the
71 commissioner and federal law or regulations; or

72 (3) The sale of liquor related items including, but not limited to, the sale of pre-packaged
73 food not requiring kitchen preparation that are incidental to the sale of liquor and on-premises
74 consumption.

75 (h) Beginning on July 1, 2030, a distillery, mini-distillery, or micro-distillery licensed under
76 this article may self-distribute, including lawful sales subject to all taxes, markups, market zone
77 payments, and fees, to licensed private venues under §60-7-1 et seq. of this code within the
78 market zone or contiguous market zone where the distillery, mini-distillery, or micro-distillery is

79 located. Distribution and sales are treated as occurring on a distillery, mini-distillery, or micro-
80 distillery licensed premises for purposes of the market zone calculation If a market zone is locked
81 out from sales due to its location, the commissioner may approve a distillery, mini-distillery, or
82 micro-distillery who requests to jump market zones to conduct sales and distribute to a licensed
83 private venue in such a market zone.

§60-4-3b. Winery and farm winery license to manufacture and sell.

1 (a) An operator of a winery or farm winery may offer wine produced by the winery, farm
2 winery, or a farm entity authorized by §60-1-5c of this code, for retail sale to customers from the
3 winery or farm winery for consumption on-premises or off-premises. Customers may consume
4 wine on-premises by the glass or drink or by the bottle when consumed by the glass when an
5 operator of a winery or farm winery offers samples pursuant to this section and §60-6-1 of this
6 code, and when the winery or farm winery is licensed as a private wine ~~restaurant~~ venue, or the
7 winery or farm winery is licensed as a private venue – alcohol manufacturer. ~~club~~. Customers may
8 not consume any wine on the licensed premises of the winery, farm winery, or a farm entity
9 authorized by §60-1-5c of this code, unless the winery, farm winery, or farm entity has obtained a
10 multi-capacity winery or farm winery license: *Provided*, That under this subsection, a licensed
11 winery or farm winery may offer samples of wine manufactured by that licensed winery or farm
12 winery for consumption on-premises during the hours of operation set forth in §60-8-34 of this
13 code. Notwithstanding any other provision of law to the contrary, a licensed winery or farm winery
14 may sell, serve, and furnish wine, for on-premises consumption when licensed accordingly during
15 the hours of operation set forth in §60-8-34 of this code unless otherwise determined by the
16 residents of the county pursuant to §7-1-3ss of this code.

17 (b) Restriction by a political subdivision upon activities and events of farm wineries
18 licensed in accordance with §60-4-3b of the code, to market and sell their products shall be
19 reasonable and shall take into account the economic impact on the farm winery of such restriction,
20 the agricultural nature of such activities and events, and whether such activities and events are

21 usual and customary for farm wineries throughout the state of West Virginia and adjacent states.
22 Usual and customary activities and events at farm wineries shall be permitted without local
23 regulation unless there is a substantial impact on the health, safety, or welfare of the public. No
24 local ordinance regulating noise, other than outdoor amplified music, arising from activities and
25 events at farm wineries shall be more restrictive than that in the general noise ordinance. In
26 authorizing outdoor amplified music at a farm winery, the political subdivision shall consider the
27 effect on adjacent property owners and nearby residents.

28 (c) A political subdivision may not regulate any of the following activities of a farm winery
29 licensed and operating in accordance with this section:

30 (1) The production and harvesting of fruit and other agricultural products and the
31 manufacturing of wine;

32 (2) The on-premises sale, tasting, or consumption of wine during business hours set forth
33 in §60-8-34 of this code;

34 (3) The direct sale and shipment of wine by common carrier to consumers in accordance
35 with the requirements of §60-8-6 and §60-8-6a of this code and the rules of the West Virginia
36 Alcohol Beverage Control Commissioner;

37 (4) The storage, warehousing, and wholesaling of wine in accordance with the rules of the
38 West Virginia and federal law or regulations; or

39 (5) The sale of wine-related items, including, but not limited, to the sale of pre-packaged
40 food not requiring kitchen preparation, that are incidental to the sale of wine and on-premises
41 consumption.

42 (6) To serve and sell wine by the glass or drink and by the bottle when consumed by the
43 glass for consumption on- premises consumption, without the requirement to serve prepared food
44 with the wine or application of any local health department limitations for food service in the area in
45 which the wine is served.

46 (d) No political subdivision may treat private personal gatherings held by the owner of a
47 licensed farm winery who resides at the farm winery or on property adjacent thereto that is owned
48 or controlled by such owner at which gatherings wine is not sold or marketed and for which no
49 consideration is received by the farm winery or its agents differently from private personal
50 gatherings by other citizens.

51 (e) Samples allowed by the provisions of this section may not exceed three fluid ounces
52 and no more than six samples may be given to a patron in any one day.

53 (f) Samples may be provided only for on-premises consumption.

54 (g) A winery, farm winery, or farm entity, pursuant to §60-1-5c of this code, may offer for
55 retail sale from its licensed premises sealed original container bottles of wine for off-premises
56 consumption.

57 (h) A winery, farm winery, or farm entity licensed pursuant to §60-1-5c of this code, holding
58 a multi-capacity license and a private wine restaurant license or private manufacturer club license
59 may offer for sale wine by the drink or glass or wine by the bottle when consumed by the glass on
60 the property of the winery, farm winery, or farm entity licensed pursuant to §60-1-5c of this code.

61 (i) Every licensed winery or farm winery shall comply with the provisions of §60-3-1 *et seq.*,
62 §60-4-1 *et seq.*, and §60-8-1 *et seq.* of this code as applicable to wine retailers, wineries, and
63 suppliers when properly licensed in such capacities.

64 (j) (1) The winery or farm winery shall pay all taxes and fees required of licensed wine
65 retailers and meet applicable licensing provisions as required by this chapter and by rules
66 promulgated by the commissioner.

67 (2) Each winery or farm winery acting as its own supplier shall submit to the Tax
68 Commissioner the liter tax for all sales at the winery or farm winery each month, as provided in
69 §60-8-1 *et seq.* of this code.

70 (3) The five percent wine excise tax, levied pursuant to §60-3-9d of this code, or pursuant
71 to §8-13-7 of this code, may not be imposed or collected on purchases of wine in the original

72 sealed package for the purpose of resale in the original sealed package, if the final purchase of the
73 wine is subject to the excise tax or if the purchase is delivered outside this state.

74 (4) A liter tax shall not be collected on wine sold in the original sealed package for the
75 purpose of resale in the original sealed package if a subsequent sale of the wine is subject to the
76 liter tax.

77 (5) This section shall not be interpreted to authorize a purchase for resale exemption in
78 contravention of §11-15-9a of this code.

79 (k) A winery or farm winery may advertise a particular brand or brands of wine produced by
80 it. The price of the wine is subject to federal requirements or restrictions.

81 (l) A winery or farm winery shall maintain separate winery or farm winery supplier, retailer,
82 and direct shipper licenses when acting in one or more of those capacities and shall pay all
83 associated license fees, unless the winery or farm winery holds a license issued pursuant to the
84 provisions of §60-8-3(b)(12) of this code. A winery or farm winery, if holding the appropriate
85 licenses or a multi-capacity winery or farm winery license, may act as its own supplier; retailer for
86 off-premises consumption of its wine as specified in §60-6-2 of this code; private wine ~~restaurant~~
87 venue; or direct shipper for wine produced by the winery or farm winery. A winery or farm winery
88 that has applied, paid all fees, and met all requirements may obtain a private venue -alcohol
89 manufacturer ~~club~~ license subject to the requirements of §60-7-1 *et seq.* of this code, and a Class
90 A retail dealer license subject to the requirements of §11-16-1 *et seq.* of this code. All wineries
91 shall use a distributor to distribute and sell their wine in the state, except for farm wineries.
92 Wineries or farm wineries may enter into alternating wine proprietorship agreements, pursuant to
93 §60-1-5c of this code.

94 (m) The owners of a licensed winery or farm winery may operate a distillery, mini-distillery,
95 or micro-distillery, brewery, or as a resident brewer, as otherwise specified in the code.

96 (n) For purposes of this section, terms have the same meaning as provided in §8-13-7 of
97 this code.

98 (o) Building code and tax classification. — Notwithstanding any provision of this code to
99 the contrary, the mere addition of a winery or farm winery licensed under this article on a property
100 does not change the nature or use of the property which otherwise qualifies as agricultural use for
101 building code and property tax classification purposes.

102 (p) In the interest of promoting tourism throughout the state, every licensed winery or farm
103 winery manufacturing wine in this state is authorized, with a limited off-site retail privilege at private
104 fairs and festivals, for on-premises consumption sales and off-premises consumption sales of only
105 the winery or farm winery's wine. At least five days prior to an approved private fair and festival, an
106 authorized winery or farm winery shall provide a copy of a written agreement to sell only wine
107 manufactured by the licensed winery or farm winery at the private fair and festival's licensed
108 premises. If approved, an authorized licensed winery or farm winery may conduct on-premises
109 and off-premises consumption sales of its wine from a designated booth at the private fair and
110 festival as set forth in §60-7-8a of this code. All authorized and approved wineries and farm
111 wineries' on-premises and off-premises consumption sales shall comply with all retail
112 requirements in §60-8-1 *et seq.* of this code, and specifically with respect to all markups, taxes,
113 and fees. Additionally, an authorized winery, farm winery, or unlicensed winery, as referenced in
114 §60-8-3 of this code may provide, sell, and serve wine samples of its wine in the amounts set forth
115 in subsection (b) of this section, wine by the glass or drink, or wine by the bottle, when consumed
116 by the glass, for on-premises consumption to patrons who are 21 years of age and older and who
117 are not intoxicated.

118 (q) Farm Wineries. – A farm winery is permitted to serve and sell wine as authorized by this
119 section without the requirement to serve prepared food or the application of any local health
120 department requirements for food service. Prior to the sale, the licensee shall verify, using proper
121 identification, that any patron purchasing wine is 21 years of age or over and that the patron is not
122 visibly intoxicated.

123 (r) All Farm Wineries may serve and sell wine at any fair or festival in the state of West
124 Virginia consistent with the requirements of §60-8-3 and ~~§60-8-8~~ of this code.

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

**§60-7-2. Definitions; authorizations; requirements for certain private club and private club
type licenses.**

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

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

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

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

7 (4) "Licensee" means the holder of a license to operate a private club granted under this
8 article, which remains unexpired, unsuspended, and unrevoked.

9 (5) "Private club" means any corporation or unincorporated association which either:

10 (A) Belongs to or is affiliated with a nationally recognized fraternal or veterans' organization
11 which is 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 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 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;

18 (B) Is a nonprofit social club, which is operated exclusively for the benefit of its members,
19 which pays no part of its income to its shareholders or individual members, which owns or leases a
20 building or other premises to which are admitted only duly-elected or approved dues-paying
21 members in good standing of the corporation or association and their guests while in the company

22 of a member and to which club the general public is not admitted, and which maintains in the
23 building or on the premises a suitable kitchen and dining facility with related equipment for serving
24 food to members and their guests;

25 (C) Is organized and operated for legitimate purposes, which has at least 100 duly- elected
26 or approved dues-paying members in good standing, which owns or leases a building or other
27 premises, including any vessel licensed or approved by any federal agency to carry or
28 accommodate passengers on navigable waters of this state, to which are admitted only duly-
29 elected or approved dues-paying members in good standing of the corporation or association and
30 their guests while in the company of a member and to which the general public is not admitted, and
31 which club maintains in the building or on the premises a suitable kitchen and dining facility with
32 related equipment and employs a sufficient number of persons for serving meals to members and
33 their guests; or

34 (D) Is organized for legitimate purposes and owns or leases a building or other delimited
35 premises in any state, county, or municipal park, or at any airport, in which a club has been
36 established, to which are admitted only duly-elected and approved dues-paying members in good
37 standing and their guests while in the company of a member and to which the general public is not
38 admitted, and which maintains in connection with the club a suitable kitchen and dining facility and
39 related equipment and employs a sufficient number of persons for serving meals in the club to the
40 members and their guests.

41 (E) Additional private club types include: a private accommodation, private venue, and
42 private sports venue.

43 (6) "Private Accommodation" means an applicant for a private club or licensed private club
44 licensee that operates as a hotel, bed and breakfast, short term rental, or resort hotel meeting the
45 criteria set forth in this subsection for a:

46 (A) Hotel, short-term rental, or bed and breakfast that:

47 (i) Offers short-term, daily rate accommodations or lodging for members and their guests
48 amounting to at least five separate bedrooms, offers a conference center or room for meetings, as
49 determined by the commissioner, and may offer one to two separate areas for the sale and
50 consumption of alcoholic liquors and nonintoxicating beer;

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

54 (iii) Maintains, at any one time, fresh food capable of being prepared in the private hotel's
55 full kitchen;

56 (iv) Owns or leases, controls, operates, and uses acreage amounting to at least one acre,
57 and such property that is bounded or fenced real property which would be listed on the licensee's
58 floorplan and would be used for hotel and conferences and large contracted group-type events
59 such as weddings, reunions, conferences, meetings, and recreational events;

60 (v) Lists the entire property from subparagraph (iv) of this paragraph and all adjoining
61 buildings and structures on the hotel's floorplan which would comprise the licensed premises,
62 which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and
63 nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these
64 activities were conducted in a building or structure or outdoors while on the hotel's licensed
65 premises and as noted on the hotel's floorplan;

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

68 (vii) May provide members and guests who are verified by proper form of identification to
69 be 21 years of age or older to have secure access via key or key card to an in-room mini-bar in
70 their rented short-term accommodation; the mini-bar may be a small refrigerator not in excess of
71 1.6 cubic feet for the sale of nonintoxicating beer or nonintoxicating craft beer, wine, hard cider,
72 and liquor sold from the original sealed container, and the refrigerator may contain;

73 (I) Any combination of 12 fluid ounce cans or bottles not exceeding 72 fluid ounces of
74 nonintoxicating beer or nonintoxicating craft beer; (II) Any combination of cans or bottles of wine or
75 hard cider not exceeding 750 ml of wine or hard cider; (III) Liquor in bottles sized from 50 ml, 100
76 ml, and 200 ml, with any combination of those liquor bottles not exceeding 750 ml; and (IV) Any
77 combination of canned or packaged food. All markups, fees, and taxes must be charged on the
78 sale of nonintoxicating beer, nonintoxicating craft beer, wine, liquor, and hard cider. All
79 nonintoxicating beer or nonintoxicating craft beer available for sale must be purchased from the
80 licensed distributor in the area where licensed. All wine or hard cider available for sale must be
81 purchased from a licensed wine distributor or authorized farm winery. All liquor available for sale
82 must be purchased from the licensed retail liquor outlet in the market zone of the licensed
83 premises. The mini-bar must be checked daily and replenished as needed to benefit the member
84 and guest.

85 (B) Resort hotel that:

86 (i) Offers short term, daily rate accommodations or lodging for members and their guests
87 amounting to at least 50 separate bedrooms and may offer multiple areas from two to 20 separate
88 areas, upon written request additional areas may be granted, for the sale and consumption of
89 alcoholic liquors and nonintoxicating beer, depending on its licensure status;

90 (ii) Operates a restaurant and full kitchen with ovens, six-burner ranges, walk-in freezers,
91 and other kitchen utensils and apparatus as determined by the commissioner on the licensed
92 premises and serves freshly prepared food at least 25 hours per week;

93 (iii) Maintains, at any one time, fresh food capable of being prepared in the resort hotel's full
94 kitchen;

95 (iv) Owns or leases, controls, operates, and uses acreage amounting to at least 10
96 contiguous acres of bounded or fenced real property which would be listed on the licensee's
97 floorplan and would be used for destination, resort, and large contracted-for group-type events
98 such as weddings, reunions, conferences, meetings, and recreational events;

99 (v) Lists the entire property from subparagraph (iv) of this paragraph and all adjoining
100 buildings and structures on the resort hotel's floorplan comprising the licensed premises which
101 would be authorized for the lawful sales, service, and consumption of alcoholic liquors and
102 nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these
103 activities were conducted in a building or structure or outdoors while on the resort hotel's licensed
104 premises;

105 (vi) May have a separately licensed resident brewer with a brewpub license inner-
106 connected via a walkway, doorway, or entryway, all as determined and approved by the
107 commissioner, for limited access during permitted hours of operation for tours and samples at the
108 resident brewery; and

109 (vii) May provide members and guests who are verified by proper form of identification to
110 be 21 years of age or older to have access via key or key card to an in-room mini-bar in their rented
111 short-term accommodation. The mini-bar may be a small refrigerator not in excess of 3.2 cubic
112 feet for the sale of nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, and liquor sold
113 from the original sealed container, and the refrigerator may contain: (I) Any combination of 12 fluid
114 ounce cans or bottles not exceeding 144 fluid ounces of nonintoxicating beer or nonintoxicating
115 craft beer; (II) Any combination of cans or bottles of wine or hard cider not exceeding one and a
116 half liters of wine or hard cider; (III) Liquor in bottles sized from 50 ml, 100 ml, 200 ml, and 375 ml
117 with any combination of such liquor bottles not exceeding one and a half liters; and (IV) Any
118 combination of canned or packaged food. All markups, fees, and taxes must be charged on the
119 sale of nonintoxicating beer, nonintoxicating craft beer, hard cider, wine, and liquor. All
120 nonintoxicating beer or nonintoxicating craft beer available for sale must be purchased from the
121 licensed distributor in the area where licensed. All wine or hard cider available for sale must be
122 purchased from a licensed wine distributor or authorized farm winery. All liquor available for sale
123 shall be purchased from the licensed retail liquor outlet in the market zone of the licensed

124 premises. The mini-bar must be checked daily and replenished as needed to benefit the member
125 and guest.

126 (7) "Private Sports Venue" means an applicant for a private club or licensed private club
127 licensee that operates as golf club, golf course, tennis club, sports stadium whether college or
128 professional sports, a multi-sport complex, a coliseum or center, or any other sports center, as
129 determined by the commissioner, where certain sports are played or watched and other events
130 occur, which operate as:

131 (A) A golf club or course that:

132 (i) Has at least one nine-hole golf course with at least nine separate and distinct golf
133 playing holes or mini-golf playing holes;

134 (ii) Has a restaurant and full kitchen with ovens, as determined by the commissioner, on the
135 licensed premises and serves freshly prepared food at least 15 hours per week;

136 (iii) Owns or leases, controls, operates, and uses acreage amounting to at least 30
137 contiguous acres of bounded or fenced real property which would be listed on the golf club or
138 course's floorplan and could be used for golfing events and large contracted group-type events
139 such as weddings, reunions, conferences, meetings, sporting, or recreational events;

140 (iv) Lists the entire property from subparagraph (iii) of this paragraph and all adjoining
141 buildings and structures on the golf club or course's floorplan comprising the licensed premises
142 which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and
143 nonintoxicating beer, wine, hard cider, or nonintoxicating craft beer throughout the licensed
144 premises whether these activities are conducted in a building or structure or outdoors while on the
145 golf club's or course's licensed premises;

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

148 (B) A tennis club or other racket sports facility that:

149 (i) Has at least four separate and distinct tennis courts, either indoor or outdoor, and a
150 clubhouse or similar facility;

151 (ii) Has a restaurant and full kitchen with ovens, as determined by the commissioner, on the
152 licensed premises which is capable of serving freshly prepared food;

153 (iii) Owns or leases, controls, operates, and uses acreage amounting to at least two
154 contiguous acres of bounded or fenced real property which would be listed on the tennis club's
155 floorplan and could be used for tennis or racket sports events and large events such as weddings,
156 reunions, conferences, tournaments, meetings, and sporting or recreational events;

157 (iv) Lists the entire property from subparagraph (iii) of this paragraph and all adjoining
158 buildings and structures on the private tennis club's floorplan comprising the licensed premises
159 which would be authorized for the lawful sales, service, and consumption of alcoholic liquors
160 throughout the licensed premises whether these activities were conducted in a building or
161 structure or outdoors while on the tennis club's or sport facility's licensed premises;

162 (v) Identifies a person, persons, an entity, or entities who or which has right, title, and
163 ownership interest in the real property buildings and structures located on the proposed licensed
164 premises;

165 (C) A college sports stadium on the campus of a college or university and may be stadium
166 or coliseum for Division I, II, or III sports and that involves a college, public or private, or university
167 that is a member of the National Collegiate Athletic Association, its successor, or other ratifying
168 body, and uses the facility for football, basketball, baseball, soccer, or other Division I, II, or III
169 sports, reserved weddings, reunions, conferences, meetings, or other special events and does not
170 maintain daily or regular operating hours as a bar or restaurant. The licensee may sell alcoholic
171 liquors and nonintoxicating beer or nonintoxicating craft beer when conducting or temporarily
172 hosting non-collegiate or collegiate sporting events. This license may be issued in the name of the
173 National Collegiate Athletic Association Division I, II, or III college or university or the name of the
174 primary food and beverage vendor under contract with that college or university. All alcohol sales

175 shall take place within the confines of the college or university stadium: *Provided*, That any outside
176 area approved for alcohol sales and nonintoxicating beer or nonintoxicating craft beer must be
177 surrounded by a fence or other barrier prohibiting entry except upon the college or university's
178 express permission, and under the conditions and restrictions established by the college or
179 university, so that the alcohol sales area is closed in order to prevent entry and access by the
180 general public. Further the applicant shall:

181 (i) Maintain an open-air or enclosed stadium or coliseum venue primarily used for sporting
182 events, such as football, basketball, baseball, soccer, or other Division I, II, or III sports, and also
183 weddings, reunions, conferences, meetings, or other events where parties shall reserve the
184 college stadium venue in advance of the event;

185 (ii) Operate a restaurant and full kitchen with ovens and equipment that is equivalent or
186 greater than a private venue restaurant, as determined by the commissioner, on the licensed
187 premises that is capable of serving freshly prepared food or meals to its stated members, guests,
188 and patrons who will be attending the event at the college sports stadium;

189 (iii) Own or lease, control, operate, and use acreage amounting to at least two contiguous
190 acres of bounded or fenced real property, as determined by the commissioner, which would be
191 listed on the college stadium's floorplan and could be used for contracted-for temporary non-
192 collegiate sporting events, group-type weddings, reunions, conferences, meetings, or other
193 events;

194 (iv) List the entire property from subparagraph (iii) of this paragraph and all adjoining
195 buildings and structures on the college sports stadium's floorplan which would comprise the
196 licensed premises, which would be authorized for the lawful sales, service, and consumption of
197 alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed
198 premises whether these activities were conducted in a building or structure or outdoors while on
199 the college sports stadium's licensed premises and as noted on the college sports stadium's
200 floorplan; and

201 (v) Have an identified person, persons, or entity that has right, title, and ownership interest
202 in the real property buildings and structures located on the proposed licensed premises;

203 (D) A professional sports stadium that is only open for professional sporting events when
204 the events are affiliated with or sponsored by a professional sporting association, reserved
205 weddings, reunions, conferences, meetings, or other special events and does not maintain daily or
206 regular operating hours as a bar or restaurant. Further an applicant shall:

207 (i) Maintain an open-air or enclosed stadium venue primarily used for sporting events, such
208 as football, baseball, soccer, auto racing, or other professional sports, and also weddings,
209 reunions, conferences, meetings, or other events where parties reserve the stadium venue in
210 advance of the event;

211 (ii) Operate a restaurant and full kitchen with ovens, as determined by the commissioner,
212 on the licensed premises which is capable of serving freshly prepared food or meals to serve its
213 stated members, guests, and patrons who will be attending the event at the stadium;

214 (iii) Own or lease, control, operate, and use acreage amounting to at least three contiguous
215 acres of bounded or fenced real property, as determined by the commissioner, which would be
216 listed on the professional sports stadium's floorplan and could be used for contracted- for
217 professional sporting events, group-type weddings, reunions, conferences, meetings, or other
218 events;

219 (iv) List the entire property from subparagraph (iii) of this paragraph and all adjoining
220 buildings and structures on the stadium's floorplan comprising the licensed premises which would
221 be authorized for the lawful sales, service, and consumption of alcoholic liquors and
222 nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these
223 activities were conducted in a building or structure or outdoors while on the stadium's licensed
224 premises; and

225 (v) Have an identified person, persons, or entity that has right, title, and ownership interest
226 in the real property buildings and structures located on the proposed licensed premises;

227 (E) A multi-sport complex that is open for multiple sports events to be played
228 simultaneously at the complex's multiple sports facilities, reserved weddings, concerts, reunions,
229 conferences, meetings, or other special events, and which:

230 (i) Maintains an open-air multi-sport complex primarily for use for sporting events, such as
231 baseball, soccer, basketball, tennis, frisbee, or other sports, but may also conduct weddings,
232 concerts, reunions, conferences, meetings, or other events where parties reserve parts of the
233 sports complex in advance of the sporting or other event;

234 (ii) Operates a restaurant and full kitchen with ovens in the licensee's main facility, as
235 determined by the commissioner, on the licensed premises which is capable of serving freshly
236 prepared food, or meals to its stated members, guests, and patrons who will be attending the
237 event at the multi-sport complex. A licensee may contract with temporary food vendors or food
238 trucks for food sales only, but not on a permanent basis, in areas of the multi-sport complex not
239 readily accessible by the main facility;

240 (iii) Maintains, at any one time, fresh food capable of being prepared in the multi-sport
241 complex's full kitchen;

242 (iv) Owns or leases, controls, operates, and uses acreage amounting to at least 50
243 contiguous acres of bounded or fenced real property, as determined by the commissioner, which
244 would be listed on the multi-sport complex's floorplan and could be used for contracted-for
245 sporting events, group-type weddings, concerts, reunions, conferences, meetings, or other
246 events;

247 (v) Lists the entire property from subparagraph (iv) of this paragraph and all adjoining
248 buildings and structures on the multi-sport complex's floorplan which would comprise the licensed
249 premises, and which would be authorized for the lawful sales, service, and consumption of
250 alcoholic liquors, nonintoxicating beer, nonintoxicating craft beer, and hard cider throughout the
251 licensed premises whether these activities were conducted in a building or structure or outdoors
252 while on the multi-sport complex's licensed premises, as noted on the multi-sport complex's

253 floorplan. The licensee may sell alcoholic liquors and nonintoxicating beer or nonintoxicating craft
254 beer from a golf cart or food truck owned or leased by the licensee and also operated by the
255 licensee when the golf cart or food truck is located on the multi-sport complex's licensed premises;
256 and

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

259 (F) A coliseum or center that is open for various events including, but not limited to, musical
260 concerts, bands, sporting events, monster trucks, combat sports, wrestling sports entertainment
261 events, circuses, expos, hobby events, tradeshow, health events, reserved weddings, reunions,
262 retreats, conventions, conferences, meetings, or other special events. The applicant shall also:

263 (i) Maintain an enclosed coliseum or center venue with at least 50,000 square feet of event
264 space primarily used for events where parties reserve the coliseum or center venue in advance of
265 the event;

266 (ii) Operate a restaurant and full kitchen with ovens, as determined by the commissioner,
267 on the licensed premises and be capable of serving freshly prepared food or meals to its stated
268 members, guests, and patrons who will be attending events at the coliseum or center;

269 (iii) Own or lease, control, operate, and use acreage amounting to at least two contiguous
270 acres of bounded or fenced real property, as determined by the commissioner, which would be
271 listed on the coliseum or center's floorplan and could be used for contracted-for events, or a
272 private fair and festival, as authorized by the commissioner per dual licensing requirements as set
273 forth in §60-7-2a of this code;

274 (iv) List the entire property from subparagraph (iii) of this paragraph and all adjoining
275 buildings and structures on the coliseum or center's floorplan comprising the licensed premises
276 which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and
277 nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these

278 activities were conducted in a building or structure or outdoors while on coliseum or center's
279 licensed premises; and

280 (v) Have an identified person, persons, or entity that has right, title, and ownership interest
281 in the real property buildings and structures located on the proposed licensed premises;

282 (8) "Private Venue" means an applicant for a private club or a licensed private club that
283 functions primarily as a bar, restaurant, wedding venue or barn, food truck, bakery, an alcohol
284 manufacturer's bar or restaurant, a farmer's market, food court, restaurants that cater food and
285 alcohol, or other establishments meeting the requirements set forth in this section for licensure, as
286 determined by the commissioner, and operate as:

287 (A) A bakery that is a business "Private bakery" means an applicant for a private club or
288 licensed private club license that has a primary function of operating a food preparation business
289 that produces baked goods, including brownies, cookies, cupcakes, confections, muffins, breads,
290 cakes, wedding cakes, and other baked goods where the applicant or licensee desires to sell
291 baked goods infused with liquor, wine, or nonintoxicating beer or nonintoxicating craft beer,
292 included: (A) such as in the icing, syrup, drizzle, or some other topping; (B) as an infusion where
293 the alcohol is not processed or cooked out of the baked goods; or (C) from an infusion packet
294 containing alcohol no greater than 10 milliliters where the purchaser adds the alcohol. The
295 applicant or licensee may not sell liquor, wine, or nonintoxicating beer or nonintoxicating craft beer
296 for on-premises or off-premises consumption. The applicant or licensee may sell the baked goods
297 with alcohol added as authorized for on-premises and off-premises consumption. Further, the
298 applicant or licensee shall:

299 (i) Have at least 50 members;

300 (ii) (i) Operate a kitchen that produces baked goods, as specified in this subdivision,
301 including at least: (I) A baking oven and a four-burner range or hot plate; (II) A sink with hot and
302 cold running water; (III) A 17 cubic foot refrigerator or freezer, or some combination of a
303 refrigerator and freezer which is not used for alcohol cold storage; (IV) Baking utensils and pans,

304 kitchen utensils, and other food consumption apparatus as determined by the commissioner; and
305 (V) Food fit for human consumption available to be served during all hours of operation on the
306 licensed premises;

307 ~~(iii) (ii) Maintain, at any one time, a food inventory capable of being prepared in the private~~
308 ~~bakery's kitchen. In calculating the food inventory, the commissioner shall include bags of chips or~~
309 ~~similar products, microwavable food or meals, frozen meals, pre-packaged foods, baking items~~
310 ~~such as flour, sugar, icing, and other confectionary items, or canned prepared foods;~~

311 ~~(iv) Use an age verification system approved by the commissioner for the purpose of~~
312 ~~verifying that persons under the age of 21 who are in the private bakery are not sold items~~
313 ~~containing alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, or wine. A person~~
314 ~~under 21 years of age may enter the shop and purchase other items not containing alcoholic~~
315 ~~liquors; and~~

316 ~~(v) Meet and be subject to all other private club requirements.~~

317 ~~"Private cigar shop" means an applicant for a private club or licensed private club licensee~~
318 ~~that has a primary function of operating a cigar shop for sales of premium cigars for consumption~~
319 ~~on or off the licensed premises. Where permitted by law, indoor on-premises cigar consumption is~~
320 ~~permitted with a limited food menu, which may be met by using a private caterer, for members and~~
321 ~~guests while the private club applicant or licensee is selling and serving liquor, wine, or~~
322 ~~nonintoxicating beer or nonintoxicating craft beer for on-premises consumption. Further, the~~
323 ~~applicant or licensee shall:~~

324 ~~(A) Have at least 50 members;~~

325 ~~(B) Operate a cigar shop and bar with a kitchen, including at least: (i) A two-burner hot~~
326 ~~plate, air fryer, or microwave oven; (ii) a sink with hot and cold running water; (iii) a 17 cubic foot~~
327 ~~refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for~~
328 ~~alcohol cold storage; (iv) kitchen utensils and other food consumption apparatus as determined by~~

329 ~~the commissioner; and (v) food fit for human consumption available to be served during all hours~~
330 ~~of operation on the licensed premises;~~

331 ~~(C) Maintain, at any one time, not less than a food inventory capable of being prepared in~~
332 ~~the private club bar's kitchen or have on hand at least \$150 in food provided by a private caterer. In~~
333 ~~calculating the food inventory, the commissioner shall include bags of chips or similar products,~~
334 ~~microwavable food or meals, frozen meals, pre-packaged foods, or canned prepared foods;~~

335 ~~(D) Use an age verification system approved by the commissioner for the purpose of~~
336 ~~verifying that persons under the age of 21 who are in the private club bar are accompanied by a~~
337 ~~parent or legal guardian, and if a person under 21 years of age is not accompanied by a parent or~~
338 ~~legal guardian, refuse to admit that person as a guest; and~~

339 ~~(E) Meet and be subject to all other private club requirements.~~

340 ~~"Private caterer" means a licensed private club restaurant, private hotel, or private resort~~
341 ~~hotel authorized by the commissioner to cater and serve food and sell and serve alcoholic liquors,~~
342 ~~or non-intoxicating beer or non-intoxicating craft beer. A private caterer shall purchase wine sold or~~
343 ~~served at a catering event from a wine distributor. A private caterer shall purchase nonintoxicating~~
344 ~~beer and nonintoxicating craft beer sold or served at the catering event from a licensed beer~~
345 ~~distributor. A private caterer shall purchase liquor from a retail liquor outlet authorized to sell in the~~
346 ~~market zone, where the catering event is held. The private caterer or the persons or entity holding~~
347 ~~the catering event shall:~~

348 ~~(A) Have at least 10 members and guests attending the catering event;~~

349 ~~(B) Have obtained an open container waiver or have otherwise been approved by a~~
350 ~~municipality or county in which the event is being held;~~

351 ~~(C) Operate a private club restaurant on a daily operating basis;~~

352 ~~(D) Only use its employees, independent contractors, or volunteers to sell and serve~~
353 ~~alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer who have received certified~~

354 training in verifying the legal identification, the age of a purchasing person, and the signs of visible,
355 noticeable, and physical intoxication;

356 (E) Provide to the commissioner, at least seven days before the event is to take place:

357 (i) The name and business address of the unlicensed private venue where the private
358 caterer is to provide food and alcohol for a catering event;

359 (ii) The name of the owner or operator of the unlicensed private venue;

360 (iii) A copy of the contract or contracts between the private caterer, the person contracting
361 with the caterer, and the unlicensed private venue;

362 (iv) A floorplan of the unlicensed private venue to comprise the private catering premises,
363 which shall only include spaces in buildings or rooms of an unlicensed private venue where the
364 private caterer has control of the space for a set time period and where the space safely accounts
365 for the ingress and egress of the stated members and guests who will be attending the private
366 catering event at the catering premises. The unlicensed private venue's floorplan during the set
367 time period as stated in the contract shall comprise the private caterer's licensed premises, which
368 is authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating
369 beer and nonintoxicating craft beer, and wine throughout the licensed private catering premises:
370 *Provided*, That the unlicensed private venue shall: (I) Be inside a building or structure; (II) have
371 other facilities to prepare and serve food and alcohol; (III) have adequate restrooms and sufficient
372 building facilities for the number of members and guests expected to attend the private catering
373 event; and (IV) otherwise be in compliance with health, fire, safety, and zoning requirements;

374 (F) Not hold more than 15 private catering events per calendar year. Upon reaching the
375 16th event, the unlicensed venue shall obtain its own private club license;

376 (G) Submit to the commissioner, evidence that any noncontiguous area of an unlicensed
377 venue is within 150 feet of the private caterer's submitted floorplan and may submit a floorplan
378 extension for authorization to permit alcohol and food at an outdoor event;

379 (H) Meet and be subject to all other private club requirements; and

380 ~~(I) Use an age verification system approved by the commissioner.~~

381 ~~(B) A bar "Private club bar" means an applicant for a private club or licensed private club~~
382 ~~licensee that has that is a business with a primary function for the use of the licensed premises as~~
383 ~~a bar for the sale and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating~~
384 ~~craft beer and wine when licensed for those sales, while providing a limited food menu for~~
385 ~~members and guests, and meeting the criteria set forth in this subdivision which:~~

386 ~~(A) Has at least 100 members;~~

387 ~~(B) (i) Operates a bar with a kitchen, including at least: (i) (I) A two-burner hot plate, air~~
388 ~~fryer, or microwave oven; (ii)-a (II) A sink with hot and cold running water; (iii)-a (III) A 17 cubic foot~~
389 ~~refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for~~
390 ~~alcohol cold storage; (iv)-kitchen (IV) Kitchen utensils and other food consumption apparatus as~~
391 ~~determined by the commissioner; and (v)-food (V) Food fit for human consumption available to be~~
392 ~~served during all hours of operation on the licensed premises; and~~

393 ~~(C) (ii) Maintains, at any one time, a food inventory capable of being prepared in the private~~
394 ~~club bar's kitchen. In calculating the food inventory, the commissioner shall include bags of chips~~
395 ~~or similar products, microwavable food or meals, frozen meals, prepackaged foods, or canned~~
396 ~~prepared foods;~~

397 ~~(D) Uses an age verification system approved by the commissioner for the purpose of~~
398 ~~verifying that persons under the age of 18 who are in the private club bar are accompanied by a~~
399 ~~parent or legal guardian. If a person under 18 years of age is not accompanied by a parent or legal~~
400 ~~guardian that person may not be admitted as a guest; and~~

401 ~~(E) Meets and is subject to all other private club requirements.~~

402 (C) A restaurant that is a business with a primary function of using the licensed premises
403 as a restaurant for serving freshly prepared meals and dining in the restaurant area. The
404 restaurant may have a bar area separate from or commingled within the restaurant where seating

405 requirements for members and guests are met by including the restaurant area. The applicant
406 must:

407 (i) Operate a restaurant and full kitchen, with ovens and four-burner ranges, with
408 refrigerators or freezers, or some combination of refrigerators and freezers greater than 50 cubic
409 feet, or a walk-in refrigerator or freezer, with other kitchen utensils and apparatus as determined by
410 the commissioner, and with freshly prepared food fit for human consumption available to be served
411 during all hours of operation on the licensed premises;

412 (ii) Use an age verification system approved by the commissioner for the purpose of
413 verifying that persons under 18 years of age who are in the bar area of the restaurant are
414 accompanied by a parent or legal guardian. The licensee may not seat a person in the bar area
415 who is under the age of 18 years who is not accompanied by a parent or legal guardian, but may
416 allow that person, as a guest, to dine for food and nonalcoholic beverage purposes in the
417 restaurant dining area;

418 (iii) If permitting members and guests to carry on to its licensed premises up to two bottles
419 of wine that a member purchased from a wine retailer, winery, or farm winery when licensed for
420 retail sales, or a licensed wine direct shipper when the purchase is for personal use and not for
421 resale, to charge a corkage fee. The licensee may charge a corkage fee of up to \$10 dollars per
422 bottle. In no event may a member or a group of members and guests exceed two sealed bottles or
423 containers of wine to carry onto the licensed premises for uncorking and serving by the restaurant
424 and for personal consumption by the member and guests. A member or guest may cork and reseal
425 any unconsumed wine bottles as provided in §60-8-3(j) of this code and the legislative rules for
426 carrying unconsumed wine off the licensed premises;

427 (iv) Have at least two restrooms for members and their guests: *Provided*, That this
428 requirement may be waived by the local health department upon supplying a written waiver of the
429 requirement to the commissioner: *Provided, however*, That the requirement may also be waived
430 for a historic building by written waiver supplied to commissioner of the requirement from the

431 historic association or district with jurisdiction over a historic building: *Provided further*, That in no
432 event may a restaurant have less than one restroom; and

433 (v) If a restaurant has been approved by the commissioner to cater and serve food and
434 cater, sell, and serve alcoholic liquors, non-intoxicating beer or non-intoxicating craft beer must
435 purchase: wine sold or served at a catering event from a wine distributor; nonintoxicating beer and
436 nonintoxicating craft beer sold or served at the catering event from a licensed beer distributor,
437 liquor from a retail liquor outlet authorized to sell in the market zone, where the catering event is
438 held. A private venue - restaurant approved to cater or the persons or entity holding the catering
439 event shall:

440 (I) Obtain an open container waiver or have otherwise been approved by a municipality or
441 county in which the catering event is being held;

442 (II) Operate a private venue - restaurant on a daily operating basis;

443 (III) Only use its employees, independent contractors, or volunteers to sell and serve
444 alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer who have received certified
445 training in verifying the legal identification, the age of a purchasing person, and the signs of visible,
446 noticeable, and physical intoxication;

447 (IV) Provide to the commissioner, at least seven days before the event is to take place the
448 following:

449 (aa) The name and business address of the unlicensed private venue where the private
450 venue caterer is to provide food and alcohol for a catering event;

451 (bb) The name of the owner or operator of the unlicensed private venue;

452 (cc) A copy of the contract or contracts between the approved private venue - restaurant
453 catering the event, the person contracting with the restaurant approved for catering, and the
454 unlicensed private venue;

455 (dd) A floorplan of the unlicensed private venue to comprise the catering premises, which
456 shall only include spaces in buildings or rooms of an unlicensed private venue where the caterer

457 has control of the space for a set time period and where the space safely accounts for the ingress
458 and egress of the stated members and guests who will be attending the catering event at the
459 approved catering premises. The unlicensed private venue's floorplan during the set time period
460 as stated in the contract shall comprise the caterer's licensed premises, which is authorized for the
461 lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer and
462 nonintoxicating craft beer, and wine throughout the licensed catering premises: *Provided*, That the
463 unlicensed private venue shall be inside a building or structure; have other facilities to prepare and
464 serve food and alcohol; have adequate restrooms and sufficient building facilities for the number of
465 members and guests expected to attend the catering event; and otherwise be in compliance with
466 health, fire, safety, and zoning requirements;

467 (V) Not hold more than 15 catering events per calendar year at a single unlicensed private
468 venue. Upon reaching the 16th event, the unlicensed private venue shall obtain its own permanent
469 license; and

470 (VI) Submit to the commissioner, evidence that any noncontiguous area of an unlicensed
471 private venue is within 150 feet of the caterer's submitted floorplan and may submit a floorplan
472 extension for authorization to permit alcohol and food at an outdoor event;

473 (D) A wedding venue or barn that is a business only open for reserved weddings, reunions,
474 conferences, meetings, or other events and does not maintain daily or regular operating hours,
475 and which:

476 (i) Maintains a venue, facility, barn, or pavilion primarily used for weddings, reunions,
477 conferences, meetings, or other events where parties reserve or contract for the venue, facility,
478 barn, or pavilion in advance of the event;

479 (ii) Operates a restaurant and full kitchen with ovens, as determined by the commissioner,
480 on the licensed premises that is capable of serving freshly prepared food, or engages a food
481 caterer to provide adequate freshly prepared food or meals to serve its stated members, guests,
482 and patrons who will be attending the event at the private wedding venue or barn. The applicant or

483 licensee shall provide written documentation including a list of food caterers or written agreements
484 regarding any food catering operations to the commissioner prior to approval of a food catering
485 event;

486 (iii) Owns or leases, controls, operates, and uses space sufficient to safely operate the
487 licensed premises. The applicant or licensee shall verify that the property is bounded and fenced,
488 subject to the commissioner's approval. The bounded or fenced real property may be listed on the
489 wedding venue's or barn's floorplan and may be used for large events such as weddings,
490 reunions, conferences, meetings, or other events; and

491 (iv) Lists the entire property and all adjoining buildings and structures on the wedding
492 venue or barn's floorplan that would comprise the licensed premises and which would be
493 authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating
494 beer or nonintoxicating craft beer throughout the licensed premises whether these activities were
495 conducted in a building or structure or outdoors while on the wedding venue or barn's licensed
496 premises;

497 ~~(E) "Private food truck" means an applicant for a private club, licensed private club~~
498 ~~licensee, or licensed private manufacturer's club licensee that has~~ A "food truck" that is a business
499 with a primary function of operating a food preparation business using an industrial truck, van, or
500 trailer to prepare food and meals for sale at various locations within the state while using a
501 propane, or electric, or other generator powered kitchen. The private food truck applicant shall
502 obtain county or municipal approval to operate a private food truck for food and liquor, wine, hard
503 cider, and nonintoxicating beer or nonintoxicating craft beer sales and service, while providing a
504 food menu for members and guests. The private food truck applicant shall:

505 ~~(A) Have at least 10 members;~~

506 ~~(B) (i) Operate with a kitchen, including at least: (i) (I) A two-burner hot plate, air fryer, or~~
507 ~~microwave oven; (ii) a (II) A sink with hot and cold running water; (iii) at (III) At least a 10 cubic foot~~
508 ~~refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for~~

509 alcohol cold storage; and ~~(iv) plastic~~ (IV) Plastic or metal kitchen utensils and other food
510 consumption apparatus as determined by the commissioner;

511 ~~(C)~~ (ii) Maintain at any one time, ~~not less than \$200~~ of food inventory that is fit for human
512 consumption and capable of being prepared and served from the ~~private~~ food truck's kitchen
513 during all hours of operation;

514 ~~(D)~~ (iii) Be sponsored, endorsed, or approved by the governing body or its designee of the
515 county or municipality in which the ~~private~~ food truck is to be located and operated. Each location
516 shall have a bounded and defined area and set hours for private food truck operations, sales, and
517 consumption of alcohol that are not greater than a private club's club type's hours of operation;

518 ~~(E)~~ (iv) Provide the commissioner with a list of all locations, including a main business
519 location, where the ~~private~~ food truck operates, and is approved for sales pursuant to ~~paragraph~~
520 ~~(D)~~ of this section subsection, and immediately update the commissioner when new locations are
521 approved by a county or municipality;

522 ~~(F)~~ (v) Require all nonintoxicating beer and nonintoxicating craft beer sold, furnished,
523 tendered, or served pursuant to the license created by this section to be purchased from the
524 licensed distributor where the ~~private~~ food truck has its home location or from a resident brewer
525 acting in a limited capacity as a distributor, all in accordance with §11-16-1 *et seq.* of this code;

526 ~~(G)~~ (vi) Require wine or hard cider sold, furnished, tendered, or served pursuant to the
527 license created by this section to be purchased from a licensed distributor, winery, or farm winery
528 in accordance with §60-8-1 *et seq.* of this code;

529 ~~(H)~~ (vii) Require liquor sold, furnished, tendered, or served pursuant to the license created
530 by this section shall be purchased from a licensed retail liquor outlet in the market zone or
531 contiguous market zone where the ~~private~~ food truck has its main business location, all in
532 accordance with §60-3A-1 *et seq.* of this code;

533 ~~(I)~~ (viii) A licensee authorized by this section shall use bona fide employees to sell, furnish,
534 tender, or serve the nonintoxicating beer or nonintoxicating craft beer, wine, or liquor;

535 ~~(J)~~ (ix) A brewer, resident brewer, winery, farm winery, distillery, mini-distillery, or micro-
536 distillery may obtain a private venue food truck license;

537 ~~(K)~~ (x) Licensed representatives of a brewer, resident brewer, beer distributor, wine
538 distributor, wine supplier, winery, farm winery, distillery, mini-distillery, micro-distillery, and liquor
539 broker representatives may attend a location where a ~~private~~ food truck is located and discuss
540 their respective products but may not engage in the selling, furnishing, tendering, or serving of any
541 nonintoxicating beer or nonintoxicating craft beer, wine, or liquor;

542 ~~(L) Use an age verification system approved by the commissioner for the purpose of~~
543 ~~verifying that persons under the age of 21 who are in the private club bar are not permitted to be~~
544 ~~served any alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, or wine but may be~~
545 ~~permitted to purchase food or other items; and~~

546 ~~(M)~~ (xi) Obtain all permits required by §60-6-12 of this code. ~~and~~

547 ~~(N) Meet and be subject to all other applicable private club requirements.~~

548 ~~"Private club restaurant" means an applicant for a private club or licensed private club~~
549 ~~licensee that has a primary function of using the licensed premises as a restaurant for serving~~
550 ~~freshly prepared meals and dining in the restaurant area. The private club restaurant may have a~~
551 ~~bar area separate from or commingled within the restaurant where seating requirements for~~
552 ~~members and guests are met by including the restaurant area. The applicant for a private club~~
553 ~~restaurant license is an applicant which:~~

554 ~~(A) Has at least 100 members;~~

555 ~~(B) Operates a restaurant and full kitchen with at least: (i) Ovens and four burner ranges;~~
556 ~~(ii) refrigerators or freezers, or some combination of refrigerators and freezers greater than 50~~
557 ~~cubic feet, or a walk-in refrigerator or freezer; (iii) other kitchen utensils and apparatus as~~
558 ~~determined by the commissioner; and (iv) freshly prepared food fit for human consumption~~
559 ~~available to be served during all hours of operation on the licensed premises;~~

560 ~~(C) Maintains, at any one time, fresh food capable of being prepared in the private club~~
561 ~~restaurant's full kitchen. In calculating the food inventory, the commissioner may not include bags~~
562 ~~of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned~~
563 ~~prepared foods;~~

564 ~~(D) Uses an age verification system approved by the commissioner for the purpose of~~
565 ~~verifying that persons under 18 years of age who are in the bar area of a private club restaurant are~~
566 ~~accompanied by a parent or legal guardian. The licensee may not seat a person in the bar area~~
567 ~~who is under the age of 18 years who is not accompanied by a parent or legal guardian, but may~~
568 ~~allow that person, as a guest, to dine for food and nonalcoholic beverage purposes in the~~
569 ~~restaurant area of a private club restaurant:~~

570 ~~(E) May uncork and serve members and guests up to two bottles of wine that a member~~
571 ~~purchased from a wine retailer, wine specialty shop, an applicable winery or farm winery when~~
572 ~~licensed for retail sales, or a licensed wine direct shipper when the purchase is for personal use~~
573 ~~and, not for resale. The licensee may charge a corkage fee of up to \$10 dollars per bottle. In no~~
574 ~~event may a member or a group of members and guests exceed two sealed bottles or containers~~
575 ~~of wine to carry onto the licensed premises for uncorking and serving by the private club restaurant~~
576 ~~and for personal consumption by the member and guests. A member or guest may cork and reseal~~
577 ~~any unconsumed wine bottles as provided in §60-8-3 (j) of this code and the legislative rules for~~
578 ~~carrying unconsumed wine off the licensed premises;~~

579 ~~(F) Has at least two restrooms for members and their guests: *Provided*, That this~~
580 ~~requirement may be waived by the local health department upon supplying a written waiver of the~~
581 ~~requirement to the commissioner: *Provided, however*, That the requirement may also be waived~~
582 ~~for a historic building by written waiver supplied to commissioner of the requirement from the~~
583 ~~historic association or district with jurisdiction over a historic building: *Provided, further*, That in no~~
584 ~~event may a private club restaurant have less than one restroom; and~~

585 ~~(G) Meets and is subject to all other private club requirements.~~

586 ~~(F) "Private manufacturer club" means an applicant for a private club or licensed private~~
587 ~~club licensee~~ An alcohol manufacturer's bar or restaurant that is a business which is also licensed
588 as a distillery, mini-distillery, micro-distillery, winery, farm winery, brewery, or resident brewery that
589 manufactures liquor, wine, hard cider, nonintoxicating beer, or nonintoxicating craft beer, which
590 may be sold, served, and furnished to members and guests for on-premises consumption at the
591 licensee's licensed premises and in the area or areas denoted on the licensee's floorplan, and
592 which:

593 ~~(A) Has at least 100 members;~~

594 ~~(B) (i) Offers tours, may offer samples, and may offer space as a conference center or for~~
595 ~~meetings;~~

596 ~~(C) (ii) Operates a restaurant and full kitchen with ovens, four-burner ranges, a refrigerator,~~
597 ~~or freezer, or some combination of a refrigerator and freezer, and other kitchen utensils and~~
598 ~~apparatus as determined by the commissioner on the licensed premises and serves food:~~
599 *Provided*, That a licensee required by the provisions of this code to serve food on premises in
600 order to lawfully serve alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, wine, or
601 hard cider may meet the requirement of having on-premises food preparation facilities by, during
602 all hours alcoholic liquors, beer, wine, and hard cider are offered for sale or sampling, having on-
603 site an operating food truck or other portable kitchen: *Provided, however*, That the approval of the
604 commissioner and the appropriate health department is required to operate; ~~as allowed by~~
605 ~~subsection (a) of this section;~~

606 ~~(D) Maintains, at any one time fresh food capable of being prepared in the private~~
607 ~~manufacturer club's full kitchen. In calculating the food inventory, the commissioner may include~~
608 ~~bags of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or~~
609 ~~canned prepared foods;~~

610 ~~(E) (iii) Owns or leases, controls, operates, and uses space which is contiguous, bounded,~~
611 ~~or fenced real property sufficient to safely operate the licensed premises that would be listed on~~

612 the licensee's floorplan and may be used for large events such as weddings, reunions,
613 conferences, meetings, and sporting or recreational events;

614 ~~(F) (iv) Lists the entire property from paragraph (E) of this subdivision and all adjoining~~
615 ~~buildings and structures on the private manufacturer club's manufacturer's floorplan that would~~
616 ~~comprise the licensed premises, which would be authorized for the lawful sale, service, and~~
617 ~~consumption of alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, hard cider, and~~
618 ~~wine throughout the licensed premises, whether these activities were conducted in a building or~~
619 ~~structure or outdoors while on the private manufacturer club's manufacturer's licensed premises;~~
620 ~~and as noted on the private manufacturer club's floorplan;~~

621 ~~(G) (v) Identifies a person, persons, an entity, or entities who or which have the right, title,~~
622 ~~and ownership or lease interest in the real property, buildings, and structures located on the~~
623 ~~proposed licensed premises;~~

624 ~~(H) Uses an age verification system approved by the commissioner; and~~

625 ~~(I) Meets and is subject to all other private club requirements.~~

626 ~~"Private fair and festival" means an applicant for a private club or a licensed private club~~
627 ~~licensee meeting the requirements of §60-7-8a of this code for a temporary event, and the criteria~~
628 ~~set forth in this subdivision which:~~

629 ~~(A) Has at least 100 members;~~

630 ~~(B) Has been sponsored, endorsed, or approved, in writing, by the governing body, or its~~
631 ~~duly elected or appointed officers, of either the municipality or of the county in which the festival,~~
632 ~~fair, or other event is to be conducted;~~

633 ~~(C) Prepares, provides, or engages a food vendor to provide adequate freshly prepared~~
634 ~~food or meals to serve its stated members and guests who will be attending the temporary festival,~~
635 ~~fair, or other event, and further provides any documentation or agreements to the commissioner~~
636 ~~prior to approval;~~

637 ~~(D) Does not use third-party entities or individuals to purchase, sell, furnish, or serve~~
638 ~~alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer;~~

639 ~~(E) Provides adequate restroom facilities, whether permanent or portable, to serve the~~
640 ~~stated members and guests who will be attending the festival, fair, or other event;~~

641 ~~(F) Provides a floorplan for the proposed premises with a defined and bounded area to~~
642 ~~safely account for the ingress and egress of stated members and guests who will be attending the~~
643 ~~festival, fair, or other event;~~

644 ~~(G) Uses an age verification system approved by the commissioner; and~~

645 ~~(H) Meets and is subject to all other private club requirements.~~

646 (G) A farmers market that is an association of bars, restaurants, and retailers, at least one
647 retailer sells West Virginia-made products among other products, and other stores who open
648 primarily during daytime hours of 6:00 a.m. to 6:00 p.m., but may operate in the day or evenings for
649 special events where the sale of food and alcoholic liquors and nonintoxicating beer or
650 nonintoxicating craft beer may occur for on-premises consumption, such as reserved weddings,
651 reserved dinners, pairing events, tasting events, reunions, conferences, meetings, or other special
652 events. All businesses that are members of the association shall be responsible for all sales,
653 service, furnishing, tendering, and consumption of alcoholic liquors, nonintoxicating beer,
654 nonintoxicating craft beer, wine, and hard cider occurring on the entire licensed premises of the
655 farmer's market, including indoor and outdoor bounded areas. The applicant shall also:

656 (i) Have one or more members operating a separate private venue restaurant license with
657 a full kitchen with ovens, four-burner ranges, a refrigerator or freezer or some combination of a
658 refrigerator and freezer, and other kitchen utensils and apparatus as determined by the
659 commissioner on the licensed premises and serve freshly prepared food at least 15 hours per
660 week;

661 (ii) Have one or more members operating a separate private venue restaurant license who
662 maintains, at any one time, fresh food capable of being prepared for events conducted at the
663 private farmers market in the private venue restaurant's full kitchen;

664 (iii) Have an association that owns or leases, controls, operates, and uses acreage
665 amounting to more than one acre, as determined by the commissioner, which is contiguous
666 acreage of bounded or fenced real property which would be listed on the licensee's floorplan and
667 would be used for large contracted-for reserved weddings, reserved dinners, pairing events,
668 tasting events, reunions, conferences, meetings, or other special events;

669 (iv) Have an association that lists in the application for licensure the entire property and all
670 adjoining buildings and structures on the farmers market's floorplan which would comprise the
671 licensed premises, which would be authorized for the lawful sales, service, and consumption of
672 alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed
673 premises whether these activities were conducted in a building or structure or outdoors while on
674 the farmers market's licensed premises;

675 (v) Have an identified person, persons, or entity that has right, title, and ownership or lease
676 interest in the real property buildings and structures located on the proposed licensed premises;

677 (vi) Have at least two separate and unrelated vendors applying for the farmer's market
678 license;

679 (vii) Only use its employees, independent contractors, or volunteers to purchase, sell,
680 furnish, or serve liquor, wine, nonintoxicating beer or nonintoxicating craft beer;

681 (viii) Provide adequate restroom facilities, whether permanent or portable, to serve the
682 stated members and guests who will be attending the farmer's market; and

683 (ix) Provide a security plan indicating all vendor points of service, entrances, and exits in
684 order to verify members', patrons', and guests' ages, to verify whether a member, patron, or guest
685 is intoxicated, and to provide for the public health and safety of members, patrons, and guests; and

686 (H) A food court that is a number of businesses involving at least one separately licensed
687 private venue - restaurant and that operates in a facility with one licensed floorplan that includes
688 an association of other inter-connected licensed private venue - restaurants or unlicensed
689 restaurants, that operate legally without alcohol sales, where all businesses that are licensed
690 members of the association have agreed in writing to be responsible for all sales, service,
691 furnishing, tendering, and consumption of alcoholic liquors and nonintoxicating beer or
692 nonintoxicating craft beer occurring on the entire licensed premises of the food court. The
693 applicant shall also:

694 (i) Have at least one member of its association who separately qualifies for a private venue
695 restaurant containing a full kitchen with ovens, four-burner ranges, a refrigerator or freezer or
696 some combination of a refrigerator and freezer, and other kitchen utensils and apparatus as
697 determined by the commissioner on the licensed premises and be capable of serving freshly
698 prepared food at least 15 hours per week in the private food court;

699 (ii) Have at least one member of its association who qualifies for a private venue restaurant
700 license who maintains, at any one time, fresh food capable of being prepared in the private venue
701 restaurant's full kitchen;

702 (iii) Have an association that owns or leases, controls, operates, and uses a facility that
703 meets requirements of this article, and the entire facility is listed on the licensee's floorplan as its
704 licensed premises;

705 (iv) Have an association that lists in the application for licensure the entire facility and any
706 inter-connected and adjoining structures on the food court's floorplan which would compromise
707 the licensed premises, and which would be authorized for the lawful sales, service, and
708 consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout
709 the licensed premises whether these activities were conducted in a building or structure while on
710 the food court's licensed premises as noted on the private food court's licensed floorplan;

711 (v) Have an identified person, persons, or entity that has right, title, and ownership or lease
712 interest in the real property buildings and structures located on the proposed licensed premises;

713 (vi) Have at least one separate and unrelated business applying for private venue food
714 court license;

715 (vii) Only use its employees, independent contractors, or volunteers to purchase, sell,
716 furnish, or serve liquor, wine, nonintoxicating beer or nonintoxicating craft beer;

717 (viii) Provide adequate restroom facilities, whether permanent or portable, to serve the
718 stated members, patrons, and guests who will be attending the private food court; and

719 (ix) Provide a security plan indicating all businesses who will be selling and serving
720 alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer, list non-licensees who will
721 be selling and serving food, list all entrances, and list all exits, provide a plan to verify the ages of
722 members, patrons, and guests, a plan to verify whether a member, patron, or guest is intoxicated,
723 and a plan to provide for the public health and safety of members, patrons, and guests.

724 ~~"Private hotel" means an applicant for a private club or licensed private club licensee~~
725 ~~meeting the criteria set forth in this subsection which:~~

726 ~~(A) Has at least 2,000 members;~~

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

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

732 ~~(D) Maintains, at any one time, fresh food capable of being prepared in the private hotel's~~
733 ~~full kitchen. In calculating the food inventory, the commissioner may not include microwavable,~~
734 ~~frozen, or canned foods;~~

735 ~~(E) Owns or leases, controls, operates, and uses acreage amounting to more than one~~
736 ~~acre but fewer than three acres, which are contiguous acres of bounded or fenced real property~~

737 ~~which would be listed on the licensee's floorplan and would be used for hotel and conferences and~~
738 ~~large contracted for group type events such as weddings, reunions, conferences, meetings, and~~
739 ~~sporting or recreational events;~~

740 ~~(F) Lists the entire property from paragraph (E) of this subdivision and all adjoining~~
741 ~~buildings and structures on the private hotel's floorplan which would comprise the licensed~~
742 ~~premises, which would be authorized for the lawful sales, service, and consumption of alcoholic~~
743 ~~liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises~~
744 ~~whether these activities were conducted in a building or structure or outdoors while on the private~~
745 ~~hotel's licensed premises and as noted on the private hotel's floorplan;~~

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

748 ~~(H) Uses an age verification system approved by the commissioner;~~

749 ~~(I) Meets and is subject to all other private club requirements; and~~

750 ~~(J) May provide members and guests who are verified by proper form of identification to be~~
751 ~~21 years of age or older to have secure access via key or key card to an in-room mini-bar in their~~
752 ~~rented short-term accommodation; the mini-bar may be a small refrigerator not in excess of 1.6~~
753 ~~cubic feet for the sale of nonintoxicating beer or nonintoxicating craft beer, wine, hard cider, and~~
754 ~~liquor sold from the original sealed container, and the refrigerator may contain: (i) Any combination~~
755 ~~of 12 fluid ounce cans or bottles not exceeding 72 fluid ounces of nonintoxicating beer or~~
756 ~~nonintoxicating craft beer; (ii) any combination of cans or bottles of wine or hard cider not~~
757 ~~exceeding 750 ml of wine or hard cider; (iii) liquor in bottles sized from 50 ml, 100 ml, and 200 ml,~~
758 ~~with any combination of those liquor bottles not exceeding 750 ml; and (iv) any combination of~~
759 ~~canned or packaged food valued at least \$50. All markups, fees, and taxes shall be charged on the~~
760 ~~sale of nonintoxicating beer, nonintoxicating craft beer, wine, liquor, and hard cider. All~~
761 ~~nonintoxicating beer or nonintoxicating craft beer available for sale shall be purchased from the~~
762 ~~licensed distributor in the area where licensed. All wine or hard cider available for sale shall be~~

763 ~~purchased from a licensed wine distributor or authorized farm winery. All liquor available for sale~~
764 ~~shall be purchased from the licensed retail liquor outlet in the market zone of the licensed~~
765 ~~premises. The mini-bar shall be checked daily and replenished as needed to benefit the member~~
766 ~~and guest.~~

767 ~~"Private resort hotel" means an applicant for a private club or licensed private club licensee~~
768 ~~which:~~

769 ~~(A) Has at least 5,000 members;~~

770 ~~(B) Offers short term, daily rate accommodations or lodging for members and their guests~~
771 ~~amounting to at least 50 separate bedrooms;~~

772 ~~(C) Operates a restaurant and full kitchen with ovens, six burner ranges, walk-in freezers,~~
773 ~~and other kitchen utensils and apparatus as determined by the commissioner on the licensed~~
774 ~~premises and serves freshly prepared food at least 25 hours per week;~~

775 ~~(D) Maintains, at any one time, fresh food capable of being prepared in the private resort~~
776 ~~hotel's full kitchen. In calculating the food inventory, the commissioner may not include~~
777 ~~microwavable, frozen, or canned foods;~~

778 ~~(E) Owns or leases, controls, operates, and uses acreage amounting to at least 10~~
779 ~~contiguous acres of bounded or fenced real property which would be listed on the licensee's~~
780 ~~floorplan and would be used for destination, resort, and large contracted-for group-type events~~
781 ~~such as weddings, reunions, conferences, meetings, and sporting or recreational events;~~

782 ~~(F) Lists the entire property from paragraph (E) of this subdivision and all adjoining~~
783 ~~buildings and structures on the private resort hotel's floorplan comprising the licensed premises~~
784 ~~which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and~~
785 ~~nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these~~
786 ~~activities were conducted in a building or structure or outdoors while on the private resort hotel's~~
787 ~~licensed premises;~~

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

790 ~~(H) Uses an age verification system approved by the commissioner;~~

791 ~~(I) Meets and is subject to all other private club requirements;~~

792 ~~(J) May have a separately licensed resident brewer with a brewpub license inner-~~
793 ~~connected via a walkway, doorway, or entryway, all as determined and approved by the~~
794 ~~commissioner, for limited access during permitted hours of operation for tours and samples at the~~
795 ~~resident brewery; and~~

796 ~~(K) May provide members and guests who are verified by proper form of identification to be~~
797 ~~21 years of age or older to have access via key or key card to an in-room mini-bar in their rented~~
798 ~~short-term accommodation. The mini-bar may be a small refrigerator not in excess of 3.2 cubic~~
799 ~~feet for the sale of nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, and liquor sold~~
800 ~~from the original sealed container, and the refrigerator may contain: (i) Any combination of 12 fluid~~
801 ~~ounce cans or bottles not exceeding 144 fluid ounces of nonintoxicating beer or nonintoxicating~~
802 ~~craft beer; (ii) any combination of cans or bottles of wine or hard cider not exceeding one and a half~~
803 ~~liters of wine or hard cider; (iii) liquor in bottles sized from 50 ml, 100 ml, 200 ml, and 375 ml with~~
804 ~~any combination of such liquor bottles not exceeding one and a half liters; and (iv) any combination~~
805 ~~of canned or packaged food. All markups, fees, and taxes shall be charged on the sale of~~
806 ~~nonintoxicating beer, nonintoxicating craft beer, hard cider, wine, and liquor. All nonintoxicating~~
807 ~~beer or nonintoxicating craft beer available for sale shall be purchased from the licensed~~
808 ~~distributor in the area where licensed. All wine or hard cider available for sale shall be purchased~~
809 ~~from a licensed wine distributor or authorized farm winery. All liquor available for sale shall be~~
810 ~~purchased from the licensed retail liquor outlet in the market zone of the licensed premises. The~~
811 ~~mini-bar shall be checked daily and replenished as needed to benefit the member and guest.~~

812 ~~"Private golf club" means an applicant for a private club or licensed private club licensee~~
813 ~~which:~~

814 ~~(A) Has at least 100 members;~~

815 ~~(B) Maintains at least one 18-hole golf course with separate and distinct golf playing holes,~~
816 ~~not reusing nine golf playing holes to comprise the 18 golf playing holes, and a clubhouse;~~

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

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

823 ~~(E) Lists the entire property from paragraph (D) of this subsection and all adjoining~~
824 ~~buildings and structures on the private golf club's floorplan comprising the licensed premises~~
825 ~~which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and~~
826 ~~nonintoxicating beer, wine, hard cider, or nonintoxicating craft beer throughout the licensed~~
827 ~~premises whether these activities are conducted in a building or structure or outdoors while on the~~
828 ~~private golf club's licensed premises;~~

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

831 ~~(G) Uses an age verification system approved by the commissioner; and~~

832 ~~(H) Meets and is subject to all other private club requirements.~~

833 ~~"Private nine-hole golf course" means an applicant for a private club or licensed private~~
834 ~~club licensee which:~~

835 ~~(A) Has at least 50 members;~~

836 ~~(B) Maintains at least one nine-hole golf course with separate and distinct golf playing~~
837 ~~holes;~~

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

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

844 ~~(E) Lists the entire property from paragraph (D) of this subdivision and all adjoining~~
845 ~~buildings and structures on the private nine-hole golf course's floorplan comprising the licensed~~
846 ~~premises which would be authorized for the lawful sales, service, and consumption of alcoholic~~
847 ~~liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises~~
848 ~~whether these activities were conducted in a building or structure or outdoors while on the private~~
849 ~~nine-hole golf course's licensed premises;~~

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

852 ~~(G) Uses an age verification system approved by the commissioner; and~~

853 ~~(H) Meets and is subject to all other private club requirements.~~

854 ~~"Private tennis club" means an applicant for a private club or licensed private club licensee~~
855 ~~which:~~

856 ~~(A) Has at least 100 members;~~

857 ~~(B) Maintains at least four separate and distinct tennis courts, either indoor or outdoor, and~~
858 ~~a clubhouse or similar facility;~~

859 ~~(C) Has a restaurant and full kitchen with ovens, as determined by the commissioner, on~~
860 ~~the licensed premises which is capable of serving freshly prepared food;~~

861 ~~(D) Owns or leases, controls, operates, and uses acreage amounting to at least two~~
862 ~~contiguous acres of bounded or fenced real property which would be listed on the private tennis~~
863 ~~club's floorplan and could be used for tennis events and large events such as weddings, reunions,~~
864 ~~conferences, tournaments, meetings, and sporting or recreational events;~~

865 ~~(E) Lists the entire property from paragraph (D) of this subdivision and all adjoining~~
866 ~~buildings and structures on the private tennis club's floorplan comprising the licensed premises~~
867 ~~which would be authorized for the lawful sales, service, and consumption of alcoholic liquors~~
868 ~~throughout the licensed premises whether these activities were conducted in a building or~~
869 ~~structure or outdoors while on the private tennis club's licensed premises;~~

870 ~~(F) Has identified a person, persons, an entity, or entities who or which has right, title, and~~
871 ~~ownership interest in the real property buildings and structures located on the proposed licensed~~
872 ~~premises;~~

873 ~~(G) Meets and is subject to all other private club requirements; and~~

874 ~~(H) Uses an age verification system approved by the commissioner.~~

875 ~~"Private college sports stadium" means an applicant for a private club or licensed private~~
876 ~~club licensee that operates a college or university stadium or coliseum for Division I, II, or III sports~~
877 ~~and that involves a college, public or private, or university that is a member of the National~~
878 ~~Collegiate Athletic Association, or its successor, and uses the facility for football, basketball,~~
879 ~~baseball, soccer, or other Division I, II, or III sports, reserved weddings, reunions, conferences,~~
880 ~~meetings, or other special events and does not maintain daily or regular operating hours as a bar~~
881 ~~or restaurant. The licensee may sell alcoholic liquors and nonintoxicating beer or nonintoxicating~~
882 ~~craft beer when conducting or temporarily hosting non-collegiate sporting events. This license~~
883 ~~may be issued in the name of the National Collegiate Athletic Association Division I, II, or III~~
884 ~~college or university or the name of the primary food and beverage vendor under contract with that~~
885 ~~college or university. All alcohol sales shall take place within the confines of the college or~~
886 ~~university stadium: *Provided*, That any outside area approved for alcohol sales and~~
887 ~~nonintoxicating beer or nonintoxicating craft beer shall be surrounded by a fence or other barrier~~
888 ~~prohibiting entry except upon the college or university's express permission, and under the~~
889 ~~conditions and restrictions established by the college or university, so that the alcohol sales area is~~
890 ~~closed in order to prevent entry and access by the general public. Further the applicant shall:~~

891 ~~(A) Have at least 100 members;~~

892 ~~(B) Maintain an open-air or enclosed stadium or coliseum venue primarily used for sporting~~
893 ~~events, such as football, basketball, baseball, soccer, or other Division I, II, or III sports, and also~~
894 ~~weddings, reunions, conferences, meetings, or other events where parties shall reserve the~~
895 ~~college stadium venue in advance of the event;~~

896 ~~(C) Operate a restaurant and full kitchen with ovens and equipment that is equivalent or~~
897 ~~greater than a private club restaurant, as determined by the commissioner, on the licensed~~
898 ~~premises that is capable of serving freshly prepared food or meals to its stated members, guests,~~
899 ~~and patrons who will be attending the event at the private college sports stadium;~~

900 ~~(D) Own or lease, control, operate, and use acreage amounting to at least two contiguous~~
901 ~~acres of bounded or fenced real property, as determined by the commissioner, which would be~~
902 ~~listed on the private college stadium's floorplan and could be used for contracted-for temporary~~
903 ~~non-collegiate sporting events, group-type weddings, reunions, conferences, meetings, or other~~
904 ~~events;~~

905 ~~(E) List the entire property from paragraph (D) of this subdivision and all adjoining buildings~~
906 ~~and structures on the private college sports stadium's floorplan which would comprise the licensed~~
907 ~~premises, which would be authorized for the lawful sales, service, and consumption of alcoholic~~
908 ~~liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises~~
909 ~~whether these activities were conducted in a building or structure or outdoors while on the private~~
910 ~~college sports stadium's licensed premises and as noted on the private college sports stadium's~~
911 ~~floorplan;~~

912 ~~(F) Have an identified person, persons, or entity that has right, title, and ownership interest~~
913 ~~in the real property buildings and structures located on the proposed licensed premises;~~

914 ~~(G) Meet and be subject to all other private club requirements; and~~

915 ~~(H) Use an age verification system approved by the commissioner.~~

916 ~~"Private professional sports stadium" means an applicant for a private club or licensed~~
917 ~~private club licensee that is only open for professional sporting events when the events are~~
918 ~~affiliated with or sponsored by a professional sporting association, reserved weddings, reunions,~~
919 ~~conferences, meetings, or other special events and does not maintain daily or regular operating~~
920 ~~hours as a bar or restaurant. The licensee may not sell alcoholic liquors and nonintoxicating beer~~
921 ~~or nonintoxicating craft beer when conducting or hosting non-professional sporting events, and~~
922 ~~further the applicant shall:~~

923 (A) ~~Have at least 1,000 members;~~

924 (B) ~~Maintain an open-air or enclosed stadium venue primarily used for sporting events,~~
925 ~~such as football, baseball, soccer, auto racing, or other professional sports, and also weddings,~~
926 ~~reunions, conferences, meetings, or other events where parties reserve the stadium venue in~~
927 ~~advance of the event;~~

928 (C) ~~Operate a restaurant and full kitchen with ovens, as determined by the commissioner,~~
929 ~~on the licensed premises which is capable of serving freshly prepared food or meals to serve its~~
930 ~~stated members, guests, and patrons who will be attending the event at the private professional~~
931 ~~sports stadium;~~

932 (D) ~~Own or lease, control, operate, and use acreage amounting to at least three contiguous~~
933 ~~acres of bounded or fenced real property, as determined by the commissioner, which would be~~
934 ~~listed on the professional sports stadium's floorplan and could be used for contracted for~~
935 ~~professional sporting events, group-type weddings, reunions, conferences, meetings, or other~~
936 ~~events;~~

937 (E) ~~List the entire property from paragraph (D) of this subdivision and all adjoining buildings~~
938 ~~and structures on the private professional sports stadium's floorplan comprising the licensed~~
939 ~~premises which would be authorized for the lawful sales, service, and consumption of alcoholic~~
940 ~~liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises~~

941 ~~whether these activities were conducted in a building or structure or outdoors while on the private~~
942 ~~professional sports stadium's licensed premises;~~

943 ~~(F) Have an identified person, persons, or entity that has right, title, and ownership interest~~
944 ~~in the real property buildings and structures located on the proposed licensed premises;~~

945 ~~(G) Meet and be subject to all other private club requirements; and~~

946 ~~(H) Use an age verification system approved by the commissioner.~~

947 ~~"Private farmers market" means an applicant for a private club or licensed private club~~
948 ~~licensee that operates as an association of bars, restaurants, and retailers who sell West Virginia-~~
949 ~~made products among other products, and other stores who open primarily during daytime hours~~
950 ~~of 6:00 a.m. to 6:00 p.m., but may operate in the day or evenings for special events where the sale~~
951 ~~of food and alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer may occur for~~
952 ~~on-premises consumption, such as reserved weddings, reserved dinners, pairing events, tasting~~
953 ~~events, reunions, conferences, meetings, or other special events and does not maintain daily or~~
954 ~~regular operating hours as a bar or restaurant. All businesses that are members of the association~~
955 ~~shall agree in writing to be liable and responsible for all sales, service, furnishing, tendering, and~~
956 ~~consumption of alcoholic liquors, nonintoxicating beer, nonintoxicating craft beer, wine, and hard~~
957 ~~cider occurring on the entire licensed premises of the private farmer's market, including indoor and~~
958 ~~outdoor bounded areas. The applicant shall also:~~

959 ~~(A) Have at least 100 members;~~

960 ~~(B) Have one or more members operating a private club restaurant and full kitchen with~~
961 ~~ovens, four-burner ranges, a refrigerator or freezer or some combination of a refrigerator and~~
962 ~~freezer, and other kitchen utensils and apparatus as determined by the commissioner on the~~
963 ~~licensed premises and serve freshly prepared food at least 15 hours per week;~~

964 ~~(C) Have one or more members operating a private club restaurant who maintain, at any~~
965 ~~one time, fresh food capable of being prepared for events conducted at the private farmers market~~
966 ~~in the private club restaurant's full kitchen. In calculating the food inventory, the commissioner may~~

967 ~~not include bags of chips or similar products, microwavable meals, frozen meals, pre-packaged~~
968 ~~foods, or canned prepared foods;~~

969 ~~(D) Have an association that owns or leases, controls, operates, and uses acreage~~
970 ~~amounting to more than one acre, which is contiguous acreage of bounded or fenced real property~~
971 ~~which would be listed on the licensee's floorplan and would be used for large contracted-for~~
972 ~~reserved weddings, reserved dinners, pairing events, tasting events, reunions, conferences,~~
973 ~~meetings, or other special events;~~

974 ~~(E) Have an association that lists in the application for licensure the entire property and all~~
975 ~~adjoining buildings and structures on the private farmers market's floorplan which would comprise~~
976 ~~the licensed premises, which would be authorized for the lawful sales, service, and consumption of~~
977 ~~alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed~~
978 ~~premises whether these activities were conducted in a building or structure or outdoors while on~~
979 ~~the private farmers market's licensed premises and as noted on the private farmers market's~~
980 ~~floorplan;~~

981 ~~(F) Have an identified person, persons, or entity that has right, title, and ownership or lease~~
982 ~~interest in the real property buildings and structures located on the proposed licensed premises;~~

983 ~~(G) Have at least two separate and unrelated vendors applying for the private farmers~~
984 ~~market license;~~

985 ~~(H) Only use its employees, independent contractors, or volunteers to purchase, sell,~~
986 ~~furnish, or serve liquor, wine, nonintoxicating beer or nonintoxicating craft beer;~~

987 ~~(I) Provide adequate restroom facilities, whether permanent or portable, to serve the stated~~
988 ~~members and guests who will be attending the private farmers market;~~

989 ~~(J) Provide a security plan indicating all vendor points of service, entrances, and exits in~~
990 ~~order to verify members', patrons', and guests' ages, to verify whether a member, patron, or guest~~
991 ~~is intoxicated, and to provide for the public health and safety of members, patrons, and guests;~~

992 ~~(K) Use an age verification system approved by the commissioner; and~~

993 ~~(L) Meet and be subject to all other private club requirements.~~

994 ~~"Private wedding venue or barn" means an applicant for a private club or licensed private~~
995 ~~club licensee that is only open for reserved weddings, reunions, conferences, meetings, or other~~
996 ~~events and does not maintain daily or regular operating hours, and which:~~

997 ~~(A) Has at least 25 members;~~

998 ~~(B) Maintains a venue, facility, barn, or pavilion primarily used for weddings, reunions,~~
999 ~~conferences, meetings, or other events where parties reserve or contract for the venue, facility,~~
1000 ~~barn, or pavilion in advance of the event;~~

1001 ~~(C) Operates a restaurant and full kitchen with ovens, as determined by the commissioner,~~
1002 ~~on the licensed premises that is capable of serving freshly prepared food, or engages a food~~
1003 ~~caterer to provide adequate freshly prepared food or meals to serve its stated members, guests,~~
1004 ~~and patrons who will be attending the event at the private wedding venue or barn. The applicant or~~
1005 ~~licensee shall provide written documentation including a list of food caterers or written agreements~~
1006 ~~regarding any food catering operations to the commissioner prior to approval of a food catering~~
1007 ~~event;~~

1008 ~~(D) Owns or leases, controls, operates, and uses space sufficient to safely operate the~~
1009 ~~licensed premises. The applicant or licensee shall verify that, the property is not less than two~~
1010 ~~acres and is remotely located, subject to the commissioner's approval. The bounded or fenced~~
1011 ~~real property may be listed on the private wedding venue's or barn's floorplan and may be used for~~
1012 ~~large events such as weddings, reunions, conferences, meetings, or other events;~~

1013 ~~(E) Lists the entire property from paragraph (D) of this subdivision and all adjoining~~
1014 ~~buildings and structures on the private wedding venue or barn's floorplan that would comprise the~~
1015 ~~licensed premises and which would be authorized for the lawful sales, service, and consumption of~~
1016 ~~alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed~~
1017 ~~premises whether these activities were conducted in a building or structure or outdoors while on~~
1018 ~~the private wedding venue or barn's licensed premises;~~

1019 ~~(F) Has an identified person, persons, or entity that has right, title, and ownership interest~~
1020 ~~in the real property buildings and structures located on the proposed licensed premises;~~

1021 ~~(G) Meets and is subject to all other private club requirements; and~~

1022 ~~(H) Uses an age verification system approved by the commissioner.~~

1023 ~~"Private multi-sport complex" means an applicant for a private club or licensed private club~~
1024 ~~licensee that is open for multiple sports events to be played at the complex facilities, reserved~~
1025 ~~weddings, concerts, reunions, conferences, meetings, or other special events, and which:~~

1026 ~~(A) Has at least 100 members;~~

1027 ~~(B) Maintains an open-air multi-sport complex primarily for use for sporting events, such as~~
1028 ~~baseball, soccer, basketball, tennis, frisbee, or other sports, but may also conduct weddings,~~
1029 ~~concerts, reunions, conferences, meetings, or other events where parties reserve parts of the~~
1030 ~~sports complex in advance of the sporting or other event;~~

1031 ~~(C) Operates a restaurant and full kitchen with ovens in the licensee's main facility, as~~
1032 ~~determined by the commissioner, on the licensed premises which is capable of serving freshly~~
1033 ~~prepared food, or meals to its stated members, guests, and patrons who will be attending the~~
1034 ~~event at the private multi-sport complex. A licensee may contract with temporary food vendors or~~
1035 ~~food trucks for food sales only, but not on a permanent basis, in areas of the multi-sport complex~~
1036 ~~not readily accessible by the main facility;~~

1037 ~~(D) Maintains, at any one time, fresh food capable of being prepared in the private multi-~~
1038 ~~sport complex's full kitchen. In calculating the food inventory, the commissioner may not include~~
1039 ~~bags of chips or similar products, microwavable meals, frozen meals, prepackaged foods, or~~
1040 ~~canned prepared foods;~~

1041 ~~(E) Owns or leases, controls, operates, and uses acreage amounting to at least 50~~
1042 ~~contiguous acres of bounded or fenced real property, as determined by the commissioner, which~~
1043 ~~would be listed on the private multi-sport complex's floorplan and could be used for contracted for~~

1044 ~~sporting events, group-type weddings, concerts, reunions, conferences, meetings, or other~~
1045 ~~events;~~

1046 ~~(F) Lists the entire property from paragraph (E) of this subdivision and all adjoining~~
1047 ~~buildings and structures on the private multi-sport complex's floorplan which would comprise the~~
1048 ~~licensed premises, and which would be authorized for the lawful sales, service, and consumption~~
1049 ~~of alcoholic liquors, nonintoxicating beer, nonintoxicating craft beer, and hard cider throughout the~~
1050 ~~licensed premises whether these activities were conducted in a building or structure or outdoors~~
1051 ~~while on the private multi-sport complex's licensed premises, as noted on the private multi-sport~~
1052 ~~complex's floorplan. The licensee may sell alcoholic liquors and nonintoxicating beer or~~
1053 ~~nonintoxicating craft beer from a golf cart or food truck owned or leased by the licensee and also~~
1054 ~~operated by the licensee when the golf cart or food truck is located on the private multi-sport~~
1055 ~~complex's licensed premises;~~

1056 ~~(G) Has an identified person, persons, or entity that has right, title, and ownership interest~~
1057 ~~in the real property buildings and structures located on the proposed licensed premises;~~

1058 ~~(H) Meets and is subject to all other private club requirements; and~~

1059 ~~(I) Uses an age verification system approved by the commissioner.~~

1060 ~~"Private coliseum or center" means an applicant for a private club or licensed private club~~
1061 ~~licensee that is open for various events including, but not limited to, musical concerts, bands,~~
1062 ~~sporting events, monster trucks, sports entertainment events, circuses, expos, hobby events,~~
1063 ~~tradeshows, health events, reserved weddings, reunions, retreats, conventions, conferences,~~
1064 ~~meetings, or other special events. The licensee may not sell alcoholic liquors, nonintoxicating beer~~
1065 ~~or wine when conducting or hosting events focused on patrons who are less than 21 years of age.~~

1066 ~~The applicant shall also:~~

1067 ~~(A) Have at least 5,000 members;~~

1068 ~~(B) Maintain an enclosed coliseum or center venue with at least 80,000 square feet of~~
1069 ~~event space primarily used for events where parties reserve the coliseum or center venue in~~
1070 ~~advance of the event;~~

1071 ~~(C) Operate a restaurant and full kitchen with ovens, as determined by the commissioner,~~
1072 ~~on the licensed premises and be capable of serving freshly prepared food or meals to its stated~~
1073 ~~members, guests, and patrons who will be attending events at the private coliseum or center;~~

1074 ~~(D) Own or lease, control, operate, and use acreage amounting to at least two contiguous~~
1075 ~~acres of bounded or fenced real property, as determined by the commissioner, which would be~~
1076 ~~listed on the private coliseum or center's floorplan and could be used for contracted-for events, or~~
1077 ~~a private fair and festival, as authorized by the commissioner per dual licensing requirements as~~
1078 ~~set forth in §60-7-2a of this code;~~

1079 ~~(E) List the entire property from paragraph (D) of this subdivision and all adjoining buildings~~
1080 ~~and structures on the private coliseum or center's floorplan comprising the licensed premises~~
1081 ~~which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and~~
1082 ~~nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these~~
1083 ~~activities were conducted in a building or structure or outdoors while on private coliseum or~~
1084 ~~center's licensed premises;~~

1085 ~~(F) Have an identified person, persons, or entity that has right, title, and ownership interest~~
1086 ~~in the real property buildings and structures located on the proposed licensed premises;~~

1087 ~~(G) Meet and be subject to all other private club requirements; and~~

1088 ~~(H) Use an age verification system approved by the commissioner.~~

1089 ~~"Private food court" means an applicant who qualifies for a private club restaurant or~~
1090 ~~licensed private club restaurant license that operates in a facility within a licensed premises with~~
1091 ~~one licensed floorplan that includes an association of other inter-connected licensed private club~~
1092 ~~restaurants or unlicensed restaurants that operate legally without alcohol sales, where all~~
1093 ~~businesses that are licensed members of the association have agreed in writing to be liable and~~

1094 ~~responsible for all sales, service, furnishing, tendering, and consumption of alcoholic liquors and~~
1095 ~~nonintoxicating beer or nonintoxicating craft beer occurring on the entire licensed premises of the~~
1096 ~~private food court. The applicant shall also:~~

1097 ~~(A) Have at least 100 members;~~

1098 ~~(B) Have at least one member of its association who qualifies for a private club restaurant~~
1099 ~~containing a full kitchen with ovens, four-burner ranges, a refrigerator or freezer or some~~
1100 ~~combination of a refrigerator and freezer, and other kitchen utensils and apparatus as determined~~
1101 ~~by the commissioner on the licensed premises and be capable of serving freshly prepared food at~~
1102 ~~least 15 hours per week in the private food court;~~

1103 ~~(C) Have at least one member of its association who qualifies for a private club restaurant~~
1104 ~~license who maintains, at any one time, fresh food capable of being prepared in the private club~~
1105 ~~restaurant's full kitchen. In calculating the food inventory the commissioner may not include bags~~
1106 ~~of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned~~
1107 ~~prepared foods;~~

1108 ~~(D) Have an association that owns or leases, controls, operates, and uses a facility that~~
1109 ~~meets requirements of this article, and the entire facility is listed on the licensee's floorplan as its~~
1110 ~~licensed premises;~~

1111 ~~(E) Have an association that lists in the application for licensure the entire facility and any~~
1112 ~~inter-connected and adjoining structures on the private food court's floorplan which would~~
1113 ~~compromise the licensed premises, and which would be authorized for the lawful sales, service,~~
1114 ~~and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer~~
1115 ~~throughout the licensed premises whether these activities were conducted in a building or~~
1116 ~~structure while on the private food court's licensed premises as noted on the private food court's~~
1117 ~~licensed floorplan;~~

1118 ~~(F) Have an identified person, persons, or entity that has right, title, and ownership or lease~~
1119 ~~interest in the real property buildings and structures located on the proposed licensed premises;~~

1120 ~~(G) Have at least one separate and unrelated business applying for private food court~~
1121 ~~license;~~

1122 ~~(H) Only use its employees, independent contractors, or volunteers to purchase, sell,~~
1123 ~~furnish, or serve liquor, wine, nonintoxicating beer or nonintoxicating craft beer;~~

1124 ~~(I) Provide adequate restroom facilities, whether permanent or portable, to serve the stated~~
1125 ~~members, patrons, and guests who will be attending the private food court;~~

1126 ~~(J) Provide a security plan indicating all businesses who will be selling and serving~~
1127 ~~alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer, list non-licensees who will~~
1128 ~~be selling and serving food, list all entrances, and list all exits, provide a plan to verify the ages of~~
1129 ~~members, patrons, and guests, a plan to verify whether a member, patron, or guest is intoxicated,~~
1130 ~~and a plan to provide for the public health and safety of members, patrons, and guests;~~

1131 ~~(K) Use an age verification system approved by the commissioner; and~~

1132 ~~(L) Meet and be subject to all other private club requirements.~~

1133 (b) All licenses under this article shall use an age verification system approved by the
1134 commissioner, and must meet and are subject to all other private club and private club type
1135 requirements, private wine venue requirements set forth in §60-8-1 et seq. of this code, and tavern
1136 requirements set forth in §11-16-1 et seq. of this code.

1137 (c) The Division of Natural Resources, the authority governing any county or municipal
1138 park, or any county commission, municipality, other governmental entity, public corporation, or
1139 public authority operating any park or airport may lease, as lessor, a building or portion thereof or
1140 other limited premises in any park or airport to any corporation or unincorporated association for
1141 the establishment of a private club type pursuant to this article.

§60-7-2a. Dual licensing permitted; conditions.

1 (a) A private venue - coliseum or center may permit a private fair and festival licensee to
2 conduct the temporary special event, authorized by that license, within, or on the private coliseum
3 or center licensee's licensed premises, in order to create tourism opportunities that will promote

4 brewers, resident brewers, wineries, farm wineries, distilleries, mini-distilleries, and micro-
5 distilleries in this state.

6 (b) A private venue - coliseum or center licensee may host a special event for a private fair
7 and festival licensee on the licensee's licensed premises if both licensees are in good standing
8 with the commissioner and submit to the commissioner the temporary floorplan revisions of the
9 private coliseum or center in which the special event would be held to comprise the special event's
10 lawful premises, which shall only include spaces in buildings or rooms of the private venue -
11 coliseum or center's licensed premises. By contractual agreement between the private venue -
12 coliseum or center licensee and the private fair and festival licensee, the parties shall agree that
13 the private venue - coliseum or center maintains control of its licensed premises, but for a set
14 contracted rental time period. The private fair and festival licensee shall safely account for the
15 ingress and egress of the stated members and guests who will be attending the special event at
16 the licensed premises. During the contracted rental time period, the private fair and festival
17 licensee is wholly responsible and liable for the proper sale and serving of alcoholic liquors and
18 nonintoxicating beer in the area designated as the private fair and festival's temporary floorplan,
19 as set forth in this section. The private fair and festival's temporary floorplan shall comprise the
20 private fair and festival's licensed premises for the temporary special event, which is authorized for
21 the lawful sale, service, and consumption of alcoholic liquors and nonintoxicating beer throughout
22 the private fair and festival's licensed premises during this dually licensed temporary special
23 event: *Provided*, That the private fair and festival's licensed premises dually shared and licensed
24 with the private coliseum or center shall:

25 (1) Have facilities to prepare and serve food and alcohol;

26 (2) Have adequate restrooms and sufficient building facilities for the expected number of
27 members and guests attending the event;

28 (3) Comply with all other requirements of its license in this article; and

29 (4) Comply with health, fire, safety, and zoning requirements.

30 (c) There is no limit on the number of private fair and festivals that may be held at a private
31 coliseum or center.

32 (d) The ability for a private outdoor designated area as defined in §8-12-26 of the code to
33 simultaneously have multiple qualified permit holders as defined in §60-7-1 *et seq.* of the code, is
34 expressly authorized.

§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 is ~~\$750~~ \$1,000 and notwithstanding
3 the Class A on-premises fees set forth in §11-16-1 *et seq.* of this code, this license must include
4 the sale of nonintoxicating beer or nonintoxicating craft beer for on-premises consumption as set
5 forth in §11-16-1 *et seq.* of this code for no additional fee, and any other nonintoxicating beer or
6 nonintoxicating craft beer services or privileges available to such Class A on-premises licenses as
7 set forth in §11-16-1 *et seq.* of this code for no additional fee but subject to all requirements in §11-
8 16-1 *et seq.* of this code.

9 (b) The annual license fee for a license issued under the provisions of this article to a
10 ~~private club other than a private club of the type specified in subsection (a) of this section is \$1,000~~
11 ~~if the private club bar or restaurant has fewer than 1,000 members; \$1,000 for a private club~~
12 ~~restaurant, private hotel, or private resort hotel to be licensed as a private caterer as defined in~~
13 ~~§60-7-2 of this code; \$500 if the private club is a private bakery; \$1,500 if the private club is a~~
14 ~~private wedding venue or barn or a private cigar shop; \$2,000 if the private club is a private nine-~~
15 ~~hole golf course, private farmers market, private food truck, private college sports stadium, private~~
16 ~~professional sports stadium, private multi-sport complex, private manufacturer club, or a private~~
17 ~~tennis club as defined in §60-7-2 of this code; \$2,500 if the private club bar or private club~~
18 ~~restaurant has 1,000 or more members; and \$2,000 if the private club is a private hotel with three~~
19 ~~or fewer designated areas, a private golf club as defined in §60-7-2 of this code, a private coliseum~~
20 ~~or center as defined in §60-7-2 of this code, or a private food court as defined in §60-7-2 of this~~

21 ~~code. If the private club is a private resort hotel as defined in §60-7-2 of this code, the private resort~~
22 ~~hotel may designate areas within the licensed premises for the lawful sale, service, and~~
23 ~~consumption of alcoholic liquors, nonintoxicating beer and nonintoxicating craft beer as provided~~
24 ~~for by this article. The annual license fee for a private resort hotel with five or fewer designated~~
25 ~~areas is \$7,500 and the annual license fee for a private resort hotel with at least six, but no more~~
26 ~~than 10 designated areas is \$12,500. The annual license fee for a private resort hotel with at least~~
27 ~~11, but no more than 15 designated areas is \$17,500. The annual license fee for a private resort~~
28 ~~hotel with no fewer than 15 nor more than 20 designated areas is \$22,500. A private resort hotel~~
29 ~~that obtained the license and paid the \$22,500 annual license fee may, upon application to and~~
30 ~~approval of the commissioner, designate additional areas for a period not to exceed seven days for~~
31 ~~an additional fee of \$150 per day, per designated area. private accommodation is \$2,500 per area:~~
32 ~~(1) A hotel, bed and breakfast, or short-term rental are authorized for up to two areas; and (2) A~~
33 ~~resort hotel is authorized for three to 20 areas, and after 20 areas the fee is \$1,000 an area. The~~
34 ~~private accommodation annual license fee, notwithstanding the Class A on-premises fees set forth~~
35 ~~in §11-16-1 et seq. of this code, includes the sale of nonintoxicating beer or nonintoxicating craft~~
36 ~~beer for on-premises consumption as set forth in §11-16-1 et seq. of this code for no additional fee,~~
37 ~~and any other nonintoxicating beer or nonintoxicating craft beer services or privileges available to~~
38 ~~such Class A on-premises licenses as set forth in §11-16-1 et seq. of this code for no additional fee~~
39 ~~but subject to all requirements in §11-16-1 et seq. of this code~~

40 (c) ~~The fee for any license issued following January 1 of any year that expires on June 30 of~~
41 ~~that year is one half of the annual license fee prescribed by subsections (a) and (b) of this section.~~
42 ~~The annual license fee for a license issued under the provisions of this article to a private sports~~
43 ~~venue is \$3,000, and notwithstanding the Class A on-premises fees set forth in §11-16-1 et seq. of~~
44 ~~this code, this license must include the sale of nonintoxicating beer or nonintoxicating craft beer for~~
45 ~~on-premises consumption as set forth in §11-16-1 et seq. of this code for no additional fee, and any~~
46 ~~other nonintoxicating beer or nonintoxicating craft beer services or privileges available to such~~

47 Class A on-premises licenses as set forth in §11-16-1 et seq. of this code for no additional fee but
48 subject to all requirements in §11-16-1 et seq. of this code.

49 (d) The annual license fee for a license issued under the provisions of this article to a
50 private venue is \$2,000, and notwithstanding the Class A on-premises fees set forth in §11-16-1 et
51 seq. of this code, this license must include the sale of nonintoxicating beer or nonintoxicating craft
52 beer for on-premises consumption as set forth in §11-16-1 et seq. of this code for no additional fee,
53 and any other nonintoxicating beer or nonintoxicating craft beer services or privileges available to
54 such Class A on-premises licenses as set forth in §11-16-1 et seq. of this code for no additional fee
55 but subject to all requirements in §11-16-1 et seq. of this code.

56 ~~(d)~~ (e) A licensee that fails to complete a renewal application and make payment of its
57 annual license fee in renewing its license on or before June 30 of any subsequent year, after initial
58 application, shall be charged an additional \$150 reactivation fee. The fee payment may not be
59 prorated or refunded, and the reactivation fee shall be paid prior to the processing of any renewal
60 application and payment of the applicable full year annual license fee. A licensee who continues to
61 operate upon the expiration of its license is subject to all fines, penalties, and sanctions available
62 in §60-7-13 and §60-7-13a of this code, all as determined by the commissioner.

63 ~~(e)~~ (f) The commissioner shall pay the fees to the State Treasurer for deposit into the
64 General Revenue Fund of the state.

65 ~~(f) The Legislature finds that the hospitality industry has been particularly damaged by the~~
66 ~~COVID-19 pandemic and that some assistance is warranted to promote reopening and continued~~
67 ~~operation of private clubs and restaurants licensed under this article. Accordingly, the fees set~~
68 ~~forth in subsections (a) and (b) of this section are temporarily modified as follows;~~

69 ~~(1) License fees for the license period beginning July 1, 2021, shall be reduced to one third~~
70 ~~of the rate set forth in subsections (a) and (b) of this section;~~

71 ~~(2) License fees for the license period beginning July 1, 2022, shall be two thirds of the rate~~
72 ~~set forth in subsections (a) and (b) of this section; and~~

73 ~~(3) License fees for the license period beginning July 1, 2023, and beyond, shall be as set~~
74 ~~forth in subsections (a) and (b) of this section.~~

§60-7-8b. One-day charitable rare, antique, or vintage liquor auction; licensee fee and application; license subject to provisions of article; exceptions.

1 (a) The commissioner may issue a special one-day, license to a licensed private club
2 venue – restaurant in partnership with one or more duly organized, federally approved nonprofit
3 corporations, associations, organizations, or entities allowing the nonprofit to conduct a charitable
4 auction of certain sealed bottles of rare, antique, or vintage liquor, as determined by the
5 commissioner, on the private club venue – restaurant licensee's licensed premises for off-
6 premises consumption only, when raising money for athletic, charitable, educational, scientific, or
7 religious purposes. A licensed private club venue – restaurant may not receive more than 12
8 licenses under this section per year.

9 (b) "Auction or auctioning", for the purposes of this section, means any silent, physical act,
10 or verbal bid auction, where the auction requires in-person bidding at a licensed private club or
11 online internet-based auction bidding, with bidders present at the licensed private club during the
12 nonprofit auction, through a secure internet-based application or website.

13 (c) *Requirements.*—

14 (1) The licensed private club venue – restaurant and nonprofit shall jointly complete an
15 application, at least 15 days prior to the event. The application may require, but is not limited to,
16 information relating to the date, time, place, floorplan of the charitable event, and any other
17 information as the commissioner may require. The applicants shall include with the application a
18 written signed and notarized statement that at least 80 percent of the net proceeds from the
19 charitable event will be donated directly to the nonprofit. The commissioner may audit the licensed
20 private club and nonprofit to verify the 80 percent requirement has been met.

21 (2) The licensed private ~~club~~ venue – restaurant and nonprofit must be in good standing
22 with the commissioner, and the applicants must receive the commissioner’s approval prior to the
23 charitable event.

24 (3) The licensed private ~~club~~ venue – restaurant and nonprofit shall submit, and the
25 commissioner shall review, the applicants’ list of rare, antique, or vintage liquor, and the applicants
26 shall submit documentation showing that the liquor was purchased from a licensed retail outlet in
27 accordance with §60-3A-1 *et seq.* of this code with all taxes and fees paid. Any rare, antique, or
28 vintage liquor with no documentation or that was not purchased in accordance with §60-3A-1 *et*
29 *seq.* of this code, may be approved for auction, if all taxes and fees are paid to the commissioner in
30 accordance with §60-3A-1 *et seq.* of this code. Any undocumented rare, antique, or vintage liquor
31 approved for charitable auction by the commissioner must be labeled in the interest of public
32 health and safety: "Purchase and consume at your own risk, as the authenticity or source of
33 manufacture of this bottle has not been verified".

34 (4) The private ~~club~~ venue – restaurant and nonprofit may not deliver, mail, or ship sealed
35 or unsealed rare, antique, or vintage liquor bottles.

36 (5) The winning bidder of the auctioned rare, antique, or vintage liquor shall pay and
37 receive the sealed rare, antique, or vintage liquor bottle before the conclusion of the event.

38 (6) The applicants shall pay a \$150 nonrefundable and nonprorated fee for the license.

39 (d) *Exceptions.* —

40 (1) A nonprofit’s charitable auctioning of sealed rare, antique, or vintage liquor bottles, as
41 determined by the commissioner, is permitted on the private ~~club’s~~ venue – restaurant’s licensed
42 premises, notwithstanding the bingo, raffle, and lottery provisions of §47-20-10, §47-21-11, and
43 §61-10-1 *et seq.* of this code, but in compliance with the auction requirements of §19-2c-1 *et seq.*
44 of this code;

45 (2) The nonprofit, upon licensure by this section, is permitted a limited, one-time exception
46 of the requirement to be a licensed retail outlet and hold a retail license issued pursuant to §60-3A-
47 1 *et seq.* of this code to sell liquor; and

48 (3) The private ~~club~~ venue – restaurant, upon licensure by this section, is provided a
49 limited, one-time exception from §60-7-12(a)(1) and §60-6-8(6) of this code, to permit the licensed
50 nonprofit to sell at auction the sealed rare, antique, or vintage liquor bottles for off-premises
51 consumption, to permit the carrying onto, the sale of, and the carrying off of the licensed premises
52 the approved sealed liquor bottles. Any private ~~club~~ venue – restaurant or nonprofit licensed
53 pursuant to this code section are subject to all penalties for violations committed under §60-3A-1
54 *et seq.* of this code and §60-7-1 *et seq.* of this code.

**§60-7-8c. Special license for a multi-vendor private fair and festival; license fee and
application; license subject to provisions of article; exception.**

1 [Repealed.]

**§60-7-8d. Where private ~~clubs~~ club types may sell and serve alcoholic liquors and
nonintoxicating beer or nonintoxicating craft beer.**

1 (a) With prior approval of the commissioner, a private club type licensee may sell, serve,
2 and furnish alcoholic liquor and, if licensed to also sell, serve, and furnish nonintoxicating beer or
3 nonintoxicating craft beer to be consumed on premises in a legally demarcated area which may
4 include a temporary private outdoor dining area or temporary private outdoor street dining area. A
5 temporary private outdoor street dining area shall be approved by the municipal government or
6 county commission in which the licensee operates. The commissioner shall develop and make
7 available an application form to facilitate the purposes of this subsection.

8 (b) The private club type licensee shall submit to the commissioner: (1) the municipal or
9 county approval of the private outdoor dining area or private outdoor street dining area; and, (2) a
10 revised floorplan requesting to sell alcoholic liquors, and when licensed, for nonintoxicating beer
11 or nonintoxicating craft beer, subject to the commissioner's requirements, in an approved and

12 bounded outdoor area. The approved and bounded area need not be adjacent to the licensee's
13 licensed premises, but in close proximity, for private outdoor street dining or private outdoor dining.
14 For purposes of this subsection, "close proximity" means an available area within 300 feet of a
15 licensee's licensed premises and under the licensee's control and with right of ingress and egress.

16 (c) This private outdoor dining or private outdoor street dining may be operated in
17 conjunction with a private wine outdoor dining or private wine outdoor street dining area set forth in
18 §60-8-32a of this code and nonintoxicating beer or nonintoxicating craft beer outdoor dining or
19 outdoor street dining set forth in §11-16-9 of this code.

20 (d) For purposes of this section, private outdoor dining and private outdoor street dining
21 include dining areas that are:

22 (1) Outside and not served by an HVAC system for air handling services and use outside
23 air;

24 (2) Open to the air; and

25 (3) Not enclosed by fixed or temporary walls; however, the commissioner may seasonally
26 approve a partial enclosure with up to three temporary or fixed walls.

27 Any area where seating is incorporated inside a permanent building with ambient air
28 through HVAC is not considered outdoor dining pursuant to this subsection.

29 (e) A private venue ~~club~~ restaurant or a private ~~manufacturer~~ venue ~~club~~ licensed for craft cocktail
30 growler sales shall provide food or a meal along with sealed craft cocktail growler sales as set forth
31 in this article to a patron who is (i) in-person or in-vehicle while picking up food or a meal, or (ii) in-
32 person having dined on food or a meal, and (iii) has ordered a sealed craft cocktail growler to-go,
33 subject to verification that the purchasing person is 21 years of age or older, and not visibly, or
34 noticeably intoxicated, and as otherwise specified in this article.

**§60-7-8e. Private ~~club~~ venue - restaurant or private venue - alcohol manufacturer ~~club~~
licensee's authority to sell craft cocktail growlers.**

1 (a) Legislative findings. — The Legislature hereby finds that it is in the public interest to
2 regulate, control, and support the brewing, manufacturing, distribution, sale, consumption,
3 transportation, and storage of liquor and its industry in this state to protect the public health,
4 welfare, and safety of the citizens of this state and promote hospitality and tourism. Therefore, this
5 section authorizes a licensed private ~~club~~ venue - restaurant or private venue - alcohol
6 manufacturer, ~~club~~, to have certain abilities to promote the sale of liquor manufactured in this state
7 for the benefit of the citizens of this state, the state's growing distilling industry, and the state's
8 hospitality and tourism industry, all of which are vital components for the state's economy.

9 (b) Sales of craft cocktail growlers. — A licensed private ~~club~~ venue - restaurant or private
10 venue - alcohol manufacturer ~~club~~ may under a current and valid license that meets the
11 requirements of this section may offer a craft cocktail growler in the ratio of up to one fluid ounce of
12 liquor to four fluid ounces of nonalcoholic beverages or mixers, not to exceed 128 fluid ounces for
13 the entire beverage in the craft cocktail growler, for retail sale to patrons from their licensed
14 premises in a sealed craft cocktail growler for personal consumption only off of the licensed
15 premises. Prior to the sale, the licensee shall verify in-person, using proper identification, that any
16 patron purchasing the craft cocktail growler is 21 years of age or older and that the patron is not
17 visibly or noticeably intoxicated. There is a ~~\$100 non-prorated, non-refundable~~ no annual fee to
18 sell craft cocktail growlers.

19 (c) Retail sales. — Every licensee licensed under this section shall comply with all the
20 provisions of this chapter applicable to retail sale of liquor at retail liquor outlets, shall comply with
21 markup specified in §60-3A-17(e)(2) of this code when conducting sealed craft cocktail growler
22 sales, and is subject to all applicable requirements and penalties in this article.

23 (d) Payment of taxes. — Every licensee licensed under this section shall pay all sales
24 taxes required of retail liquor outlets, in addition to any other taxes required, and meet any
25 applicable licensing provisions as required by this chapter and by rule of the commissioner.

26 (e) Advertising. — Every licensee licensed under this section may only advertise a
27 particular brand or brands of liquor manufactured by a distillery, mini-distillery, or micro-distillery
28 upon written approval from the distillery, mini-distillery, micro-distillery, or an authorized and
29 licensed broker to the licensee. Advertisements may not encourage intemperance or target
30 minors.

31 (f) Craft cocktail growler defined. — For purposes of this chapter, "Craft Cocktail Growler"
32 means a container or jug that is made of glass, ceramic, metal, plastic, or other material approved
33 by the commissioner, that may be no larger than 128 fluid ounces in size and must be capable of
34 being securely sealed. The growler may be used by an authorized licensee for purposes of off-
35 premises sales only of liquor and a nonalcoholic mixer or beverage for personal consumption not
36 on a licensed premise. Notwithstanding any other provision of this code to the contrary, a securely
37 sealed craft cocktail growler is not an open container under state and local law. A craft cocktail
38 growler with a broken seal is an open container under state and local law unless it is located in an
39 area of the motor vehicle physically separated from the passenger compartment. A craft cocktail
40 growler is not an original container of liquor, but once sanitized, filled, properly sealed, and sold, all
41 as set forth in this article, is a sealed container.

42 (g) Craft cocktail growler requirements. — A licensee licensed under this section shall
43 prevent patrons from accessing the secure area where the filling of the craft cocktail or craft
44 cocktail growler occurs. A licensee licensed under this section shall sanitize, fill, securely seal, and
45 label any craft cocktail growler prior to its sale. A licensee licensed under this section may refill a
46 craft cocktail growler subject to the requirements of this section. A licensee licensed under this
47 section shall visually inspect any craft cocktail growler before filling or refilling it. A licensee
48 licensed under this section may not fill or refill any craft cocktail growler that appears to be
49 cracked, broken, unsafe, or otherwise unfit to serve as a sealed beverage container. For purposes
50 of this article, a secure sealing means using a tamper-evident seal, such as: (1) A plastic heat
51 shrink wrap band, strip, or sleeve extending around the cap or lid of craft cocktail growler to form a

52 seal that must be broken when the container is opened; or (2) A screw top cap or lid that breaks
53 apart when the craft cocktail growler is opened.

54 (h) Craft cocktail growler labeling. — A licensee licensed under this section selling craft
55 cocktail growlers shall affix a conspicuous label on all sold and securely sealed craft cocktail
56 growlers listing the name of the licensee selling the craft cocktail growler, the brand of the liquor in
57 the craft cocktail growler, the type of craft cocktail or name of the craft cocktail, the alcohol content
58 by volume of the liquor in the craft cocktail growler, and the date the craft cocktail growler was filled
59 or refilled. All labeling on the craft cocktail growler shall be consistent with all federal labeling and
60 warning requirements.

61 (i) Craft cocktail growler sanitation. — A licensee licensed under this section shall clean
62 and sanitize all craft cocktail growlers he or she fills or refills in accordance with all state and
63 county health requirements prior to its sealing. In addition, the licensee licensed under this section
64 shall sanitize, in accordance with all state and county health requirements, all taps, tap lines, pipe
65 lines, barrel tubes, and any other related equipment used to fill or refill craft cocktail growlers.
66 Failure to comply with this subsection may result in penalties under this article: *Provided*, That, if
67 the reuse or refilling of a craft cocktail growler would violate federal law such craft cocktail growler
68 may only be used one-time, for one filling, and shall be discarded after the one-time use.

69 (j) Pre-mixing of craft cocktail. — A licensee licensed under this section may pre-mix the
70 nonalcoholic beverages or mixers in the advance of a craft cocktail growler purchase and sealing,
71 and add the liquor, as set forth in this section, upon a member or guest's purchase of a craft
72 cocktail growler. A licensee licensed under this section shall dispose of any expired premixed
73 nonalcoholic beverages or mixers pursuant to Bureau for Public Health requirements when such
74 premixed nonalcoholic beverages or mixers are no longer fit for human consumption. A licensee
75 authorized under §60-6-8(7) of this code may use a premixed beverage meeting the requirements
76 of that section and is also subject to the requirements of this section for a craft cocktail growler.

77 (k) Limitations on licensees. — A licensee licensed under this section shall not sell craft
78 cocktail growlers to other licensees, but only to its members and guests. A licensee licensed under
79 this section shall provide food or a meal along with one sealed craft cocktail growler to a patron
80 who is in-person or in-vehicle while picking up food or a meal, or who dined in-person on food or a
81 meal and has ordered ~~and~~ a sealed craft cocktail growler-to-go, subject to verification that the
82 purchasing person is 21 years of age or older, and not visibly or noticeably intoxicated, and as
83 otherwise specified in this article. A licensee licensed under this section may only sell one sealed
84 craft cocktail growler to a patron or one craft cocktail growler per food or meal in the order
85 delivered per §60-7-8f of this code. A licensee licensed under this section shall be subject to the
86 applicable penalties under this article for violations of this article.

87 (l) Rules. — The commissioner, in consultation with the Bureau for Public Health, may
88 propose legislative rules concerning sanitation for legislative approval, pursuant to §29A-3-1 *et*
89 *seq.* of this code, to implement the purposes of this section.

**§60-7-8f. Private delivery license for a licensed private ~~club~~ venue - restaurant, private
venue – alcohol manufacturer ~~club~~, or a third party; requirements; limitations; third
party license fee; private cocktail delivery permit; and requirements.**

1 (a) A licensed private ~~club~~ venue- restaurant ~~or~~ private venue - alcohol manufacturer ~~club~~
2 licensed to sell liquor for on-premises consumption may apply for a private delivery license
3 permitting the order, sale, and delivery of liquor and a nonalcoholic mixer or beverage in a sealed
4 craft cocktail growler, when separately licensed for craft cocktail growler sales. The order, sale,
5 and delivery of a sealed craft cocktail growler is permitted for off-premises consumption when
6 completed by the licensee to a person purchasing the craft cocktail growler through a telephone, a
7 mobile ordering application, or web-based software program, authorized by the licensee's license.
8 There is no additional fee for a licensed private ~~club~~ venue-restaurant ~~or~~ private venue - alcohol
9 manufacturer ~~club~~ to obtain a private delivery license. The order, sale, and delivery process shall

10 meet the requirements of this section. The order, sale, and delivery process is subject to the
11 penalties of this article.

12 (b) A third party, not licensed for liquor sales or distribution, may apply for a private delivery
13 license for the privilege of ordering and delivery of craft cocktail growlers, from a licensee with a
14 craft cocktail growler license. The order and delivery of a sealed craft cocktail growler is permitted
15 by a third party who obtains a license under this section when a private ~~club~~ venue - restaurant or
16 private venue alcohol manufacturer ~~club~~ sells to a person purchasing the sealed craft cocktail
17 growler through telephone orders, a mobile ordering application, or a web-based software
18 program. The private delivery license nonprorated, nonrefundable annual fee is \$200 for each
19 third party entity, with no limit on the number of drivers and vehicles.

20 (c) The private delivery license application shall comply with licensure requirements in this
21 article and shall require any information required by the commissioner: *Provided*, That the license
22 application may not require a third party applicant to furnish information pursuant to §60-7-12 of
23 this code.

24 (d) *Sale Requirements.* —

25 (1) The craft cocktail growler purchase shall accompany the purchase of prepared food or
26 a meal and the completion of the sale may be accomplished by the delivery of the prepared food or
27 a meal, and craft cocktail growler by the licensed private ~~club~~ venue- restaurant or private venue -
28 alcohol manufacturer, ~~club~~, or third party private delivery licensee;

29 (2) Any purchasing person shall be 21 years of age or older, shall not be visibly or
30 noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this
31 chapter for the sale of alcoholic liquors and as set forth in §11-16-1 *et seq.* of the code for
32 nonintoxicating beer or nonintoxicating craft beer.

33 (3) "Prepared food or a meal" for this article, means food that has been cooked, grilled,
34 fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other

35 manner freshly made and prepared, and does not include pre-packaged food from the
36 manufacturer.

37 (4) An order, sale, and delivery may consist of multiple sealed craft cocktail growlers for
38 each order of food or meal: *Provided*, That the entire delivery order may not contain any
39 combination of craft cocktail growlers of more than 128 fluid ounces total; and

40 (5) A third party private delivery licensee shall not have a pecuniary interest in a private
41 ~~club~~ venue- restaurant or private venue - alcohol manufacturer ~~club~~ licensee, as set forth in this
42 article. A third party private delivery licensee may only charge a convenience fee for the delivery of
43 any alcohol. The third party private delivery licensee may not collect a percentage of the delivery
44 order for the delivery of alcohol, but may continue to collect a percentage of the delivery order
45 directly related to the prepared food or a meal. The convenience fee charged by the third-party
46 private delivery licensee to the purchasing person shall be no greater than \$20 per delivery order
47 where a craft cocktail growler is ordered by the purchasing person. For any third party licensee
48 also licensed for wine growler delivery as set forth in §60-8-6c of the code, or nonintoxicating beer
49 or nonintoxicating craft beer growler delivery as set forth in §11-16-6d of the code, the total
50 convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail
51 growler shall not exceed \$20.

52 (e) *Craft Cocktail Growler Delivery Requirements.* —

53 (1) Delivery persons employed for the delivery of a sealed craft cocktail growler shall be 21
54 years of age or older. The licensed private ~~club~~ venue- restaurant, private venue - alcohol
55 manufacturer ~~club~~, or third party private delivery licensee shall file each delivery person's name,
56 driver's license, and vehicle information with the commissioner;

57 (2) The licensed private ~~club~~ venue - restaurant, private venue - alcohol manufacturer
58 ~~club~~, or third party private delivery licensee shall train delivery persons on verifying legal
59 identification and in identifying the signs of intoxication. The licensee shall submit certification of
60 the training to the commissioner;

61 (3) The third party delivery licensee, ~~or the private club~~ venue- restaurant, or private
62 ~~manufacturing-club~~ venue – alcohol manufacturer shall hold a private cocktail delivery permit for
63 each vehicle delivering a craft cocktail growler pursuant to subsection (g) of this section: *Provided*,
64 That a delivery driver may retain an electronic copy of his or her permit as proof of licensure.

65 (4) Prepared food or a meal, and a sealed craft cocktail growler order delivered by a third
66 party private delivery licensee, a private ~~club~~ venue – restaurant, or private venue - alcohol
67 ~~manufacturer club~~ may occur in the county or contiguous counties where the licensed private ~~club~~
68 venue - restaurant or private venue - alcohol ~~manufacturer-club~~ is located;

69 (5) The licensed private ~~club~~ venue- restaurant, ~~or private~~ venue - alcohol manufacturer
70 ~~club~~, or third party private delivery licensee may only deliver prepared food or a meal, and a sealed
71 craft cocktail growler to addresses located in West Virginia. The licensed private venue ~~club~~
72 ~~restaurant, private manufacturer-club~~, or third party private delivery licensee shall account for and
73 pay all sales and municipal taxes;

74 (6) The licensed private ~~club~~ venue- restaurant, ~~or private~~ venue - alcohol manufacturer
75 ~~club~~, or third party private delivery licensee may not deliver prepared food or a meal, and a sealed
76 craft cocktail growler to any other licensee;

77 (7) Deliveries of prepared food or a meal, and a sealed craft cocktail growler are only for
78 personal use, and not for resale; and

79 (8) The licensed private ~~club~~ venue- restaurant, ~~or private~~ venue - alcohol manufacturer
80 ~~club~~, or third party private delivery licensee shall not deliver and leave the prepared food or a meal,
81 and a sealed craft cocktail growler at any address without verifying a person's age and
82 identification as required by this section.

83 (f) Telephone, mobile ordering application, or web-based software requirements. —

84 (1) The delivery person may only permit the person who placed the order through a
85 telephone order, a mobile ordering application, or web-based software to accept the prepared food

86 or meal and a craft cocktail growler delivery, subject to age verification upon delivery with the
87 delivery person's visual review and age verification;

88 (2) Any mobile ordering application or web-based software used shall include the delivery
89 driver's name and vehicle information and delivery shall be subject to legal identification
90 verification;

91 (3) Any telephone ordering system shall maintain a log or record of the purchasing
92 person's identification and details of the sale, accessible by the delivery driver for verification, shall
93 include the delivery driver's name and vehicle information, and delivery shall be subject to legal
94 identification verification;

95 (4) All records are subject to inspection by the commissioner. The licensed private ~~club~~
96 venue - restaurant, private venue - alcohol manufacturer ~~club~~, or third party private delivery
97 licensee shall retain records for three years, and may not unreasonably withhold the records from
98 the commissioner's inspection; and

99 (5) The third party private delivery licensee, ~~or the private club~~ venue- restaurant, or
100 private ~~manufacturing club~~ venue - alcohol manufacturer shall hold a valid private cocktail delivery
101 permit under subsection (g) of this section for each vehicle used for delivery: *Provided*, That a
102 delivery driver may retain an electronic copy of his or her permit as proof of licensure.

103 (g) *Private Cocktail Delivery Permit.* —

104 (1) The licensed private ~~club~~ venue - restaurant, ~~or private~~ venue - alcohol manufacturer,
105 ~~club~~, or third party private delivery licensee shall obtain and maintain a retail transportation permit
106 for the delivery of prepared food and a sealed craft cocktail growler, subject to the requirements of
107 this article.

108 (2) A third party private delivery licensee, a private ~~club~~ venue - restaurant, or private
109 venue - alcohol manufacturer ~~club~~ licensee shall provide vehicle and driver information, requested
110 by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver
111 and vehicle information with the commissioner within 10 days of the change.

112 (3) In conjunction with §60-6-12 of this code, a private cocktail delivery permit shall meet
113 the requirements of a transportation permit authorizing the permit holder to transport liquor subject
114 to the requirements of this chapter.

115 (h) *Enforcement.* —

116 (1) The third party private delivery licensee, ~~the private club~~ venue- restaurant, or private
117 venue - alcohol manufacturer ~~club~~ licensed by this section are responsible for any violations
118 committed by their employees or independent contractors under this article, and more than one
119 violation may be issued for a single violation involving multiple licensees, employees, or
120 independent contractors.

121 (2) Any license or permit granted by this section is subject to the penalties of probation,
122 monetary fines, suspension, and revocation, as set forth in this article, for violations committed by
123 the licensee, its employees, or independent contractors.

124 (3) It is a violation for any licensee, its employees, or independent contractors to break the
125 seal of a craft cocktail growler. The licensees in violation are subject to the maximum penalties
126 available in this article.

127 (4) For purposes of criminal enforcement of the provisions of this article, persons ordering,
128 purchasing, and accepting delivery of orders are considered to be purchasers.

**§60-7-8g. Special permit for a qualified permit holder in a private outdoor designated area;
license fee and application; license subject to provisions of article.**

1 (a) There is hereby created a special permit, designated Class S4, for the sale of liquor,
2 wine, nonintoxicating beer, and nonintoxicating craft beer in a private outdoor designated area that
3 has been approved by a municipality pursuant to §8-12-26 of this code. Each Class S4 permittee
4 may sell, furnish, or serve liquor, wine, nonintoxicating beer, and nonintoxicating craft beer as
5 provided in this section.

6 (b) Definitions:

7 (1) "Private outdoor designated area" means public property that has become a legally
8 demarcated area established by a municipal ordinance as set forth in §8-12-26 of this code for the
9 consumption of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer.

10 (2) "Qualified permit holder" means the holder of any of the following:

11 (i) A Class A private club type license or Class S2 or Class S3 license issued under this
12 article;

13 (ii) A Class A tavern or brewpub license or Class S or Class S1 license issued under §11-
14 16-1 *et seq.* of this code;

15 (iii) A Class A private wine venue restaurant, ~~private wine bed and breakfast, or private~~
16 ~~wine spa~~ license issued under §60-8-1 *et seq.* of this code;

17 (iv) A Class A hard cider license issued under §60-8A-1 *et seq.* of this code; or

18 (v) A Class S4N permit issued under §60-7-8h of this code.

19 (c) To be eligible for the special Class S4 permit authorized by subsection (a) of this
20 section, the qualified permit holder shall:

21 (1) Operate in a private outdoor designated area created by municipal ordinance as set
22 forth in §8-12-26 of this code, and provide the commissioner a copy of the certified ordinance from
23 the municipality;

24 (2) Apply to the commissioner for the special permit prior to operating in an approved
25 private outdoor designated area on an application provided by the commissioner;

26 (3) Pay a nonrefundable non-prorated annual special permit fee of \$100 to the
27 commissioner: *Provided*, That this fee does not apply to qualified permit holders with a Class S1,
28 Class S2, or Class S3 license, which are subject only to the applicable fees in §11-16-1 *et seq.* and
29 §60-7-1 *et seq.* of this code;

30 (4) Be in compliance with all state and federal laws and be in good standing with the
31 commissioner;

32 (5) Be approved by the municipality to operate in the private outdoor designated area;

33 (6) Provide the days and hours of operation in the private outdoor designated area;

34 (7) Provide, in conjunction with the municipality, adequate restroom facilities, whether
35 permanent or portable, to serve the members, patrons, and guests who will be attending the
36 private outdoor designated area;

37 (8) Provide a security plan for the private outdoor designated area indicating: All qualified
38 permit holders' licensed premises where alcohol will be served in approved non-glass containers;
39 all entrances and exits in order to verify members', patrons', and guests' ages, and to assess
40 whether a member, patron, or guest is under 21 years of age or intoxicated; and a plan to provide
41 for the public health and safety of members, patrons, and guests;

42 (9) Provide a floorplan for the private outdoor designated area indicating a legally
43 demarcated area that is bounded or uses signage to safely account for the ingress and egress of
44 members, patrons, and guests who will be within the private outdoor designated area and also be
45 permitted to carry liquor, wine, nonintoxicating beer, and nonintoxicating craft beer on and off of
46 the qualified permit holders' licensed premises and within the private outdoor designated area
47 when contained in an approved non-glass container: *Provided*, That customers within the private
48 outdoor designated area may carry alcoholic beverages purchased from any holder of a Class S4
49 or S4N permit and served in an approved non-glass container into and out of, and consume the
50 beverages within, the establishment of any other holder of a Class S4 or S4N permit within the
51 applicable private outdoor designated area. The private outdoor designated area's floorplan does
52 comprise a separate licensed premises authorized only for the lawful consumption of liquor, wine,
53 nonintoxicating beer, or nonintoxicating craft beer throughout the licensed premises when lawfully
54 purchased from a qualified permit holder;

55 (10) Meet and be subject to all other applicable license requirements;

56 (11) Provide a plan to prevent members, guests, and patrons from bringing, consuming, or
57 selling alcohol not in an approved non-glass container in the private outdoor designated area; and

58 (12) Use an age verification system approved by the commissioner.

59 (d) Notwithstanding the requirement to acquire a Class S4 or S4N permit to operate within
60 a private outdoor designated area set forth in §60-7-8g(c) of this code, the holder of a Class S,
61 Class S1, Class S2, or Class S3 license may participate in a private outdoor designated area on
62 the premises of a Class S4 or S4N permit holder if that Class S4 or S4N permit holder grants
63 permission, in writing, for the Class S, Class S1, Class S2, or Class S3 licensee to participate. A
64 Class S, Class S1, Class S2, or Class S3 licensee may not participate in a private outdoor
65 designated area pursuant to such written permission unless it has first met all applicable permit
66 and fee requirements found in §11-16-1 *et seq.* and §60-7-1 *et seq.* of this code.

67 (e) As set forth in §8-12-26 of this code a municipality may, by ordinance, establish a
68 private outdoor designated area where the municipality may zone, set requirements, and establish
69 conditions for safe operation of a private outdoor designated area by qualified permit holders.

70 (f) A municipality is responsible for the enforcement of any criminal violations occurring in
71 a private outdoor designated area and shall report such violations to the commissioner for a
72 determination of any violation of §11-16-1 *et seq.* and chapter 60 of this code.

73 (g) The commissioner shall enforce any violations of §11-16-1 *et seq.* and §60-1-1 *et seq.*
74 of this code committed by individual qualified permit holders against their permit and any other
75 current license issued by the commissioner to the qualified permit holder alleged to be in violation.

76 (h) A qualified permit holder that is separately authorized for an outdoor dining area or
77 sidewalk dining area may continue to operate those areas in conjunction with the private outdoor
78 designated area subject to the commissioner's requirements. Notwithstanding any other section of
79 the code, a private outdoor designated area is authorized to simultaneously host multiple qualified
80 permit holders as defined in §60-7-1 *et seq.* of the code.

81 (i) A qualified permit holder that also is licensed and operates a Class A licensee under
82 §11-16-1 *et seq.* of this code, §60-7-1 *et seq.* of this code, or §60-8-1 *et seq.* of this code, and that
83 is approved for operating within the private outdoor designated area may operate a pedal bike for
84 alcohol sales authorized by the Class A licensee's license on a pedal bike while the pedal bike is

85 operating in the private outdoor designated area. A pedal bike is a pedal-powered portable bar on
86 wheels, with a driver in the captain's seat, capable of holding between 10 to 16 patrons who may
87 pedal while being served alcohol and consuming alcohol from a private outdoor designated area
88 cup while on the pedal bike. Additional pedal bike requirements:

89 (1) The pedal bike must have pedals for each patron and may have an electric or gas assist
90 for the pedaling, and may only operate on streets with a posted speed limit of 35 miles per hour or
91 less within the private outdoor designated area.

92 (2) Patrons on the pedal bike must all be verified as 21 years of age or older.

93 (3) The pedal bike must be approved by the commissioner, and a municipality must
94 authorize the pedal bike's alcohol sales and the pedal bike's operation on public roads within a
95 private outdoor designated area. Further, the municipality must exempt the pedal bike driver from
96 any open container laws and driving-under-the-influence laws that would hold the driver
97 responsible for patrons who are being sold, tendered, served, and consuming alcohol while
98 passengers on the pedal bike in the private outdoor designated area.

99 (4) The driver may not consume alcohol, if the driver is found to have consumed alcohol,
100 then this privilege may be revoked immediately by the commissioner and the municipality.

101 (5) The patrons may leave the pedal bike and take their private outdoor designated area
102 cup containing alcohol from the pedal bike to the private outdoor designated area and continue to
103 consume the alcohol from the cup, if they remain in the private outdoor designated area.

104 (6) There may not be any glass containers used for serving, tendering, selling, or
105 consuming alcohol or non-alcohol drinks on the pedal bike.

106 (j) A licensee permitted under this section is subject to all other provisions of the article
107 under which the licensee's license is issued, as well as to the rules and orders of the
108 commissioner: *Provided*, That the commissioner may, by rule or order, allow certain waivers or
109 exceptions with respect to those provisions, rules, or orders as required by the circumstances of
110 the operation of qualified permit holders in each private outdoor designated area. The

111 commissioner may revoke or suspend immediately any permit issued under this section prior to
112 any notice or hearing, notwithstanding §60-7-13a of this code: *Provided, however,* That under no
113 circumstances may the provisions of §60-7-12 of this code be waived or an exception granted with
114 respect thereto.

§60-7-15. License for the sale of nonintoxicating beer.

1 Notwithstanding any other provision of this code to the contrary, no licensee shall be
2 prohibited from obtaining a license for the sale of nonintoxicating beer under the provisions of
3 ~~article sixteen of chapter eleven~~ §11-16-1 et seq. of this code because such licensee sells
4 alcoholic liquors, permits the consumption of alcoholic liquor on his or her premises, or is the
5 holder of a federal tax stamp permitting the sale of such alcoholic liquor. Further, the sale of
6 nonintoxicating beer by a licensee licensed under this article is permitted and notwithstanding the
7 Class A on-premises fees set forth in §11-16-1 et seq. of this code, the private club type license
8 shall include the sale of nonintoxicating beer or nonintoxicating craft beer for on-premises
9 consumption as set forth in §11-16-1 et seq. of this code for no additional fee, and any other
10 nonintoxicating beer or nonintoxicating craft beer services or privileges available to such Class A
11 on-premises licenses as set forth in §11-16-1 et seq. of this code for no additional fee, but subject
12 to all requirements in §11-16-1 et seq. of this code.

ARTICLE 8. SALE OF WINES.

§60-8-2. Definitions.

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

3 "Commissioner" or "commission" means the West Virginia Alcohol Beverage Control
4 Commissioner.

5 "Distributor" means any person whose principal place of business is within the State of
6 West Virginia who makes purchases from a supplier to sell or distribute wine to retailers, grocery
7 stores, private wine venues, ~~bed and breakfasts, private wine restaurants, private wine spas,~~

8 private clubs, or private club types, ~~or wine specialty shops~~ and that sells or distributes nonfortified
9 dessert wine, port, sherry, and Madeira wines to wine ~~specialty shops~~ retailers with special wines,
10 private wine ~~restaurants~~ venues, private clubs, or ~~retailers~~ private club types under authority of this
11 article, and maintains a warehouse in this state for the distribution of wine. For the purpose of a
12 distributor only, the term "person" means and includes an individual, firm, trust, partnership, limited
13 partnership, limited liability company, association, or corporation. Any trust licensed as a
14 distributor or any trust that is an owner of a distributor licensee, and the trustee or other persons in
15 active control of the activities of the trust relating to the distributor license, is liable for acts of the
16 trust or its beneficiaries relating to the distributor license that are unlawful acts or violations of this
17 article, notwithstanding the liability of trustees in §44D-10-1 *et seq.* of this code.

18 "Fortified wine" means any wine to which brandy or other alcohol has been added where
19 the alcohol content by volume does not exceed 24 percent, and includes nonfortified dessert
20 wines where the alcohol content by volume is greater than 17 percent and does not exceed 24
21 percent.

22 "Grocery store" means any retail establishment, commonly known as a grocery store,
23 supermarket, delicatessen, caterer, or party supply store, where food, food products, and supplies
24 for the table are sold for consumption off the premises with average monthly sales (exclusive of
25 sales of wine) of not less than \$500 and an average monthly inventory (exclusive of inventory of
26 wine) of not less than \$500. The term "grocery store" also includes and means a separate and
27 segregated portion of any other retail store which is dedicated solely to the sale of food, food
28 products, and supplies for the table for consumption off the premises with average monthly sales
29 with respect to the separate or segregated portion, exclusive of sales of wine, of not less than
30 \$500 and an average monthly inventory, exclusive of inventory of wine, of not less than \$500.

31 "Hard Cider" means a type of wine that is derived primarily from the fermentation of apples,
32 pears, peaches, honey, or another fruit, or from apple, pear, peach, or another fruit juice
33 concentrate and water; contains no more than 0.64 grams of carbon dioxide per 100 milliliters;

34 contains at least one half of one percent and less than 12 and one-half percent alcohol by volume;
35 and is advertised, labeled, offered for sale, or sold, as hard cider or cider containing alcohol, and
36 not as wine, wine product, or as a substitute for wine.

37 "Hard Cider Distributor" means any person whose principal place of business is within the
38 State of West Virginia who makes purchases from a supplier to sell or distribute hard cider, but not
39 other types of wine, to retailers, grocery stores, private wine venues, ~~bed and breakfasts~~, ~~private~~
40 ~~wine restaurants~~, ~~private wine spas~~, private clubs, or private club types ~~wine specialty shops~~ under
41 authority of this code and maintains a warehouse in this state for the distribution of hard cider, but
42 not other types of wine. For the purpose of a hard cider distributor, the term "person" means and
43 includes an individual, firm, trust, partnership, limited partnership, limited liability company,
44 association, or corporation. Any trust licensed as a distributor or any trust that is an owner of a
45 distributor licensee, and the trustee, or any other person or persons in active control of the
46 activities of the trust relating to the distributor license, is liable for acts of the trust or its
47 beneficiaries relating to the distributor license that are unlawful acts or violations of this article,
48 notwithstanding the liability of trustees in §44D-10-1 *et seq.* of this code.

49 "Licensee" means the holder of a license granted under the provisions of this article.

50 "Nonfortified dessert wine" means a wine that is a dessert wine to which brandy or other
51 alcohol has not been added, and which has an alcohol content by volume of at least 15.6 percent
52 and less than or equal to 17 percent.

53 "Person" means and includes an individual, firm, partnership, limited partnership, limited
54 liability company, association, or corporation.

55 ~~"Private wine bed and breakfast" means any business with the sole purpose of providing,~~
56 ~~in a residential or country setting, a hotel, motel, inn, or other such establishment properly zoned~~
57 ~~as to its municipality or local ordinances, lodging and meals to its customers in the course of their~~
58 ~~stay at the establishment, which business also: (1) Is a partnership, limited partnership,~~
59 ~~corporation, unincorporated association, or other business entity which as part of its general~~

60 ~~business purpose provides meals on its premises to its members and their guests; (2) is licensed~~
61 ~~under the provisions of this article as to all of its premises or as to a separate segregated portion of~~
62 ~~its premises to serve wine to its members and their guests when the sale accompanies the serving~~
63 ~~of food or meals; and (3) admits only duly elected and approved dues-paying members and their~~
64 ~~guests while in the company of a member and does not admit the general public.~~

65 "Private wine restaurant venue" means a:

66 (1) A restaurant, as determined by the commissioner, which:

67 (4) (i) Is a partnership, limited partnership, corporation, unincorporated association, or
68 other business entity which has, as its principal purpose, the business of serving meals on its
69 premises to its members and their guests;

70 ~~(2) is~~ (ii) Is licensed under the provisions of this article as to all of its premises or as to a
71 separate segregated portion of its premises to serve wine to its members and their guests when
72 the sale accompanies the serving of food or meals; and

73 ~~(3) admits~~ (iii) Admits only duly elected and approved dues-paying members and their
74 guests while in the company of a member and does not admit the general public. Private clubs
75 club types that meet the private wine venue - restaurant requirements in this definition shall be
76 considered private wine venue - restaurants; ~~Provided, That, a private wine restaurant shall~~

77 (iv) Shall have at least two restrooms: ~~Provided, however,~~ That the two restroom
78 requirement may be waived by a written waiver provided from a local health department to the
79 commissioner: ~~And provided further~~ Provided, however, That a private wine restaurant venue
80 located in an historic building may also be relieved of the two restroom requirement if a historic
81 association or district with jurisdiction over a historic building provides a written waiver of the
82 requirement to the commissioner: ~~And provided~~ Provided further, That in no event shall a private
83 wine restaurant venue have less than one restroom: ~~And provided further,~~ That a winery or farm
84 winery holding a private wine restaurant venue license or a multi-capacity winery or farm winery
85 license is not subject to the food service requirements of this subdivision.

86 ~~"Private wine spa"~~ (2) A spa or health facility, as determined by the commissioner, means
87 any which is a business with the sole purpose of providing commercial facilities devoted especially
88 to health, fitness, weight loss, beauty, therapeutic services, and relaxation, and may also be a
89 licensed massage parlor or a salon with licensed beauticians or stylists, which business also:

90 ~~(1) (i)~~ Is a partnership, limited partnership, corporation, unincorporated association, or
91 other business entity which as part of its general business purpose provides meals on its premises
92 to its members and their guests;

93 ~~(2) is (ii)~~ Is licensed under the provisions of this article as to all of its premises or as to a
94 separate segregated portion of its premises to serve up to two glasses of wine to its members and
95 their guests when the sale accompanies the serving of food or meals; and

96 ~~(3) admits (iii)~~ Admits only duly elected and approved dues-paying members and their
97 guests while in the company of a member, and does not admit the general public.

98 (3) A bed and breakfast or short term rental accommodation, as determined by the
99 commissioner, is any business with the sole purpose of providing, in a residential or country
100 setting, a hotel, motel, inn, or other such establishment properly zoned as to its municipality or
101 local ordinances, lodging and meals to its customers in the course of their stay at the
102 establishment, which such business also:

103 (i) Is a partnership, limited partnership, corporation, unincorporated association, or other
104 business entity which as part of its general business purpose provides meals on its premises to its
105 members and their guests;

106 (ii) Is licensed under the provisions of this article as to all of its premises or as to a separate
107 segregated portion of its premises to serve wine to its members and their guests when the sale
108 accompanies the serving of food or meals; and

109 (iii) Admits only duly elected and approved dues-paying members and their guests while in
110 the company of a member and does not admit the general public.

111 "Retailer" means any person licensed to sell wine at retail to the public at his or her
112 established place of business for off-premises consumption and who is licensed to do so under
113 authority of this article. Additionally, the sale of wine shall include the sale of table wine, and
114 special wines, such as nonfortified dessert wines, wine accessories, and food or foodstuffs
115 normally associated with wine. If the retailer offers special wines, the retailer must:

116 (1) Maintain a representative number of wines for sale in his or her inventory which are
117 designated by label as varietal wine, vintage, generic, and/or according to region of production and
118 the inventory shall contain not less than 15 percent vintage or vintage-dated wine by actual bottle
119 count; and

120 (2) Maintain an inventory of port, sherry, and Madeira wines having an alcoholic content of
121 not more than 24 percent alcohol by volume and which have been matured in wooden barrels or
122 casks. All wine available for sale shall be for off-premises consumption except where wine tasting
123 or wine sampling is separately authorized by this code.

124 "Supplier" means any manufacturer, producer, processor, winery, farm winery, national
125 distributor, or other supplier of wine who sells or offers to sell or solicits or negotiates the sale of
126 wine to any licensed West Virginia distributor.

127 "Table wine" means a wine with an alcohol content by volume between 0.5 percent and
128 15.5 percent.

129 "Tax" includes within its meaning interest, additions to tax, and penalties.

130 "Taxpayer" means any person liable for any tax, interest, additions to tax, or penalty under
131 the provisions of this article, and any person claiming a refund of tax.

132 "Varietal wine" means any wine labeled according to the grape variety from which the wine
133 is made.

134 "Vintage wine" or "vintage-dated wine" means wines from which the grapes used to
135 produce the wine are harvested during a particular year, or wines produced from the grapes of a
136 particular harvest in a particular region of production.

137 "Wine" means any alcoholic beverage obtained by the natural fermentation of the natural
138 content of grapes, other fruits, or honey or other agricultural products containing sugar to which no
139 alcohol has been added and includes table wine, hard cider, nonfortified dessert wine, wine
140 coolers, and other similar wine-based beverages. Fortified wine and any product defined as or
141 contained within the definition of nonintoxicating beer under the provisions of §11-16-1 *et seq.*, of
142 this code are excluded from this definition of wine.

143 ~~"Wine specialty shop" means a retailer who deals principally in the sale of table wine,~~
144 ~~nonfortified dessert wines, wine accessories, and food or foodstuffs normally associated with wine~~
145 ~~and: (1) Who maintains a representative number of wines for sale in his or her inventory which are~~
146 ~~designated by label as varietal wine, vintage, generic, and/or according to region of production and~~
147 ~~the inventory shall contain not less than 15 percent vintage or vintage-dated wine by actual bottle~~
148 ~~count; and (2) who, any other provisions of this code to the contrary notwithstanding, may maintain~~
149 ~~an inventory of port, sherry, and Madeira wines having an alcoholic content of not more than 24~~
150 ~~percent alcohol by volume and which have been matured in wooden barrels or casks. All wine~~
151 ~~available for sale shall be for off-premises consumption except where wine tasting or wine~~
152 ~~sampling is separately authorized by this code.~~

§60-8-3. Licenses; fees; general restrictions.

1 (a) No person may engage in business in the capacity of a winery, farm winery, supplier,
2 distributor, retailer, private wine venue ~~bed and breakfast, private wine restaurant, private wine~~
3 ~~spa, or wine specialty shop~~ without first obtaining a license from the commissioner, nor shall a
4 person continue to engage in any activity after his or her license has expired, been suspended, or
5 revoked. No person may be licensed simultaneously as a distributor and a retailer. No person,
6 except for a winery or farm winery, may be licensed simultaneously as a supplier and a retailer. No
7 person except for a winery or farm winery holding a multi-capacity winery or farm winery license
8 may be licensed simultaneously as a supplier and a private wine venue. ~~bed and breakfast, private~~
9 ~~wine restaurant, or a private wine spa.~~ No person may be licensed simultaneously as a distributor

10 and a private wine venue. ~~bed and breakfast, private wine restaurant, or a private wine spa~~. No
11 person except for a winery or farm winery or holding a multi-capacity winery or farm winery license
12 may be licensed simultaneously as a retailer and a private wine venue. ~~bed and breakfast, a~~
13 ~~private wine restaurant, or a private wine spa~~. Any person who is licensed to engage in any
14 business concerning the manufacture, sale, or distribution of wine may also engage in the
15 manufacture, sale, or distribution of hard cider without obtaining a separate hard cider license.

16 (b) The commissioner shall collect an annual fee for licenses issued under this article as
17 follows:

18 (1) One hundred fifty dollars per year for a supplier's license;

19 (2) Two thousand five hundred dollars per year for a distributor's license and each separate
20 warehouse or other facility from which a distributor sells, transfers, or delivers wine shall be
21 separately licensed and there shall be collected with respect to each location, the annual license
22 fee of \$2,500 as provided in this subdivision;

23 ~~(3) One hundred fifty dollars per year for a retailer's license;~~

24 ~~(4) Two hundred fifty~~ (3) Five hundred dollars per year for a wine ~~specialty shop~~ retailer
25 license, in addition to any other licensing fees paid by a winery or retailer holding a license. Except
26 for the amount of the license fee and the restriction to sales of winery or farm winery wines, a
27 winery, or farm winery acting as a wine ~~specialty shop~~ retailer with special wines is subject to all
28 other provisions of this article which are applicable to a wine ~~specialty shop~~ retailer as defined in
29 §60-8-2 of this code. Notwithstanding the Class B off-premises fees set forth in §11-16-1 et seq. of
30 this code, this license shall include the sale of nonintoxicating beer or nonintoxicating craft beer for
31 off-premises consumption as set forth in §11-16-1 et seq. of this code for no additional fee, and any
32 other nonintoxicating beer or nonintoxicating craft beer services or privileges available to such
33 Class B off-premises licenses as set forth in §11-16-1 et seq. of this code for no additional fee, but
34 subject to all requirements in §11-16-1 et seq. of this code;

35 ~~(5) One hundred fifty dollars per year~~ (4) No fee for a wine tasting license;

36 ~~(6) One hundred fifty~~ (5) Five hundred dollars per year for a private wine venue ~~bed and~~
37 ~~breakfast~~ license. Each separate ~~bed and breakfast~~ private wine venue from which a licensee sells
38 wine shall be separately licensed and there shall be collected with respect to each location the
39 annual license fee of ~~\$150~~ \$500 as provided in this subdivision. Notwithstanding the Class A on-
40 premises fees set forth in §11-16-1 et seq. of this code, this license includes the sale of
41 nonintoxicating beer or nonintoxicating craft beer for on-premises consumption as set forth in §11-
42 16-1 et seq. of this code for no additional fee, and any other nonintoxicating beer or
43 nonintoxicating craft beer services or privileges available to such Class A on-premises licenses as
44 set forth in §11-16-1 et seq. of this code for no additional fee, but subject to all requirements in §11-
45 16-1 et seq. of this code;

46 ~~(7) Two hundred fifty dollars per year for a private wine restaurant license. Each separate~~
47 ~~restaurant from which a licensee sells wine shall be separately licensed and there shall be~~
48 ~~collected with respect to each location the annual license fee of \$250 as provided in this~~
49 ~~subdivision;~~

50 ~~(8) One hundred fifty dollars per year for a private wine spa license. Each separate private~~
51 ~~wine spa from which a licensee sells wine shall be separately licensed and there shall be collected~~
52 ~~with respect to each location the annual license fee of \$150 as provided in this subdivision;~~

53 ~~(9) One hundred fifty dollars per year~~ (6) No fee for a wine sampling license issued for a
54 wine retailer; ~~specialty shop~~ ~~under subsection (n) of this section;~~

55 ~~(10)~~ (7) No fee for a special one-day license under subsection (p) of this section or for a
56 heritage fair and festival license under subsection (q) of this section;

57 ~~(11)~~ (8) One hundred fifty dollars per year for a direct shipper's license for a licensee who
58 sells and ships only wine and \$250 per year for a direct shipper's license who ships and sells wine,
59 nonfortified dessert wine, port, sherry, or Madeira wines;

60 ~~(12)~~ (9) Three hundred fifty dollars per year for a multi-capacity winery or farm winery
61 license which enables the holder to operate as a retailer, ~~wine specialty shop~~, supplier, and direct
62 shipper without obtaining an individual license for each capacity; and

63 ~~(13)~~ (10) Two hundred fifty dollars per year for a hard cider distributor's license. Each
64 separate warehouse or other facility from which a distributor sells, transfers, or delivers hard cider
65 shall be separately licensed and there shall be collected with respect to each location the annual
66 license fee of \$250 as provided in this subdivision: *Provided*, That if a licensee is licensed as a
67 nonintoxicating beer or nonintoxicating beer distributor, then there is no additional license fee to
68 distribute hard cider.

69 (c) The license period begins on July 1 of each year and ends on June 30 of the following
70 year. ~~and if granted for a less period, the fee shall be computed semiannually in proportion to the~~
71 ~~remainder of the fiscal year.~~

72 (d) No retailer may be licensed as a private club type as provided by §60-7-1 *et seq.* of this
73 code, except as provided by subsection (k) of this section.

74 (e) ~~No A~~ retailer may be licensed as a ~~Class A~~ Class B retail dealer in nonintoxicating beer
75 as provided by §11-16-1 *et seq.* of this code. ~~*Provided*, That a delicatessen, a caterer, or party~~
76 ~~supply store, which is a grocery store as defined in §60-8-2 of this code, and which is licensed as a~~
77 ~~Class A retail dealer in nonintoxicating beer may be a retailer under this article: *Provided*,~~
78 ~~*however*, That any delicatessen, caterer, or party supply store licensed in both capacities shall~~
79 ~~maintain average monthly sales exclusive of sales of wine and nonintoxicating beer which exceed~~
80 ~~the average monthly sales of nonintoxicating beer.~~

81 (f) A wine ~~specialty shop~~ retailer under this article may also hold a wine tasting license
82 authorizing the retailer to serve complimentary samples of wine in moderate quantities for tasting.
83 The wine ~~specialty shop~~ retailer shall organize a wine taster's club, which has at least 50 ~~duly~~
84 ~~elected or approved~~ dues-paying members in good standing. The club shall meet on the wine
85 ~~specialty shop's~~ retailer's premises not more than one time per week and shall either meet at a

86 time when the premises are closed to the general public, or meet in a separate segregated facility
87 on the premises to which the general public is not admitted. Attendance at tastings shall be limited
88 to duly elected or approved ~~dues-paying~~ members and their guests. There is no additional fee for a
89 wine tasting license.

90 (g) A retailer who has more than one place of retail business shall obtain a license for each
91 separate retail establishment. ~~A retailer's license may be issued only to the proprietor or owner of~~
92 ~~a bona fide grocery store or wine specialty shop.~~

93 (h)(1) The commissioner may issue a license for the retail sale of wine at any fair or festival
94 which is endorsed or sponsored by the governing body of a municipality or a county commission.
95 The license shall be issued for a term of no longer than 10 consecutive days and the fee for the
96 license is \$250 regardless of the term of the license. The application for the license shall contain
97 information required by the commissioner and shall be submitted to the commissioner at least 30
98 days prior to the first day when wine is to be sold at the any fair or festival.

99 (2) Notwithstanding subdivision (1) of this subsection, if the applicant for the fair or festival
100 license is the manufacturer of the wine, a winery, or a farm winery as defined in §60-1-5a of this
101 code, and the event is located on the premises of a winery or a farm winery, then the license fee is
102 \$50 per fair or festival.

103 (3) A licensed winery or a farm winery, which has the fair or festival licensee's written
104 authorization and approval from the commissioner, may, in addition to, or in conjunction with the
105 fair and festival licensee, exhibit, conduct complimentary tastings, or sell samples not to exceed
106 six, three-fluid ounce, tastings or samples per patron, or serve wine by the glass for consumption
107 on the premises during the operation of a fair or festival only; and may sell wine by the bottle for on-
108 premises consumption, when consumed by the glass, and sealed bottles of wine for off-premises
109 consumption: *Provided*, That for licensed wineries or farm wineries at a licensed fair or festival;
110 tastings, samples, on-premises sales, and off-premises sales shall occur under the hours of

111 operation as required in this article, ~~except on Sunday~~, tastings, samples, and off-premises sales
112 are unlawful between the hours of 2:00 a.m. and 6:00 a.m.

113 (4) ~~A fair or festival license may be issued to a "wine club" as defined in this subdivision for~~
114 ~~a license fee of \$250. A wine club meeting requirements in this subdivision may obtain a license to~~
115 ~~operate with members. The festival or fair committee or the governing body~~ The wine club shall
116 designate a person to organize a club under a name which includes ~~the name of the fair or festival~~
117 ~~and the words "wine club". The license shall be issued in the name of the wine club. The wine club~~
118 ~~license has no fee for the license. A licensee~~ A wine club, approved by the commissioner, who has
119 ~~at least 50 verified due paying members may not sell wine as provided in this subdivision until the~~
120 ~~wine club has at least 50 dues paying members who have been enrolled, and to whom~~
121 ~~membership cards have been issued. Thereafter, new members may be enrolled and issued~~
122 ~~membership cards at any time during the period for which the license is issued. carry wine, in~~
123 ~~sufficient quantities, on to the licensed premises of a private wine venue or a private club type~~
124 ~~when lawfully purchased from a wine retailer, winery, farm winery, or direct shipper for purpose of~~
125 ~~conducting a wine club tasting dinner for its members and guests. The private wine venue or~~
126 ~~private club type must agree to permitting the wine club to carry on the wine bottles for the~~
127 ~~purposes of a wine tasting dinner to its licensed premises. A wine club licensed under the~~
128 ~~provisions of this subdivision may either take, remove, or destroy all open and unconsumed wine~~
129 ~~used in the wine tasting dinner, or the open and unconsumed wine bottles may be re-corked and~~
130 ~~resealed as provided subsection (j) of this section. may sell wine only to its members, and in~~
131 ~~portions not to exceed eight ounces per serving. The sales shall take place on premises or in an~~
132 ~~area cordoned or segregated so as to be closed to the general public, and the general public shall~~
133 ~~not be admitted to the premises or area. A wine club licensee under the provisions of this~~
134 ~~subdivision may serve complimentary samples of wine in moderate quantities for~~ to its members
135 ~~and guests at a wine tasting dinner. A wine club may not make wine purchases from a direct~~
136 ~~shipper where the wine may be consumed on the licensed premises of any Class A private wine~~

137 ~~retail licensee or private club licensee.~~ A wine club which violates the provisions of this subdivision
138 is subject to the penalties in this article.

139 (5) A licensed winery or farm winery approved to participate in a fair or festival under the
140 provisions of this section and the licensee holding the license, or the licensed winery or farm
141 winery approved to attend a licensed fair or festival, is subject to all other provisions of this article
142 and the rules and orders of the commissioner relating to the license: *Provided*, That the
143 commissioner may by rule or order provide for certain waivers or exceptions with respect to the
144 provisions, rules, or orders required by the circumstances of each fair or festival, including, without
145 limitation, the right to revoke or suspend any license issued pursuant to this section prior to any
146 notice or hearing notwithstanding the provisions §60-8-27 and §60-8-28 of this code: *Provided*,
147 *however*, That under no circumstances shall the provisions of §60-8-20(c) or §60-8-20(d) of this
148 code, be waived nor shall any exception be granted with respect to those subsections.

149 (6) A license issued under the provisions of this section and the licensee holding the
150 license are not subject to the provisions of subsection (g) of this section.

151 (7) An unlicensed winery temporarily licensed and meeting the requirements set forth in
152 subsection (q) of this section may conduct the same sampling and sales set forth in subsection (q)
153 of this section at a licensed fair and festival upon approval of the licensee holding the fair and
154 festival license and temporary and limited licensure by the commissioner. An unlicensed winery is
155 subject to the same limits, fees, requirements, restrictions, and penalties set forth in subsection (q)
156 of this section: *Provided*, That the commissioner may by rule or order provide for certain waivers or
157 exceptions with respect to the provisions, rules, or orders required by the circumstances of each
158 fair or festival. The commissioner may revoke or suspend any license issued pursuant to this
159 section prior to any notice or hearing notwithstanding the provisions §60-8-27 and §60-8-28 of this
160 code: *Provided, however*, That under no circumstances shall the provisions of §60-8-20(c) or §60-
161 8-20(d) of this code be waived nor shall any exception be granted with respect to those
162 subsections.

163 (i)(1) The commissioner may issue a special license for the retail sale of wine in a
164 professional baseball stadium. A license to sell wine granted pursuant to this subsection entitles
165 the licensee to sell and serve wine for consumption in a professional baseball stadium. For the
166 purpose of this subsection, "professional baseball stadium" means a facility constructed primarily
167 for the use of a major or minor league baseball franchisee affiliated with the National Association
168 of Professional Baseball Leagues, Inc., or its successor, and used as a major or minor league
169 baseball park. Any special license issued pursuant to this subsection shall be for a term beginning
170 on the date of issuance and ending on the next following June 30, and its fee is \$250 regardless of
171 the length of the term of the license. The application for the special license shall contain
172 information required by the commissioner and must be submitted to the commissioner at least 30
173 days prior to the first day when wine is to be sold at the professional baseball stadium. The special
174 license may be issued in the name of the baseball franchisee or the name of the primary food and
175 beverage vendor under contract with the baseball franchisee. These sales must take place within
176 the confines of the professional baseball stadium. The exterior of the area where wine sales may
177 occur shall be surrounded by a fence or other barrier prohibiting entry except upon the
178 franchisee's express permission, and under the conditions and restrictions established by the
179 franchisee, so that the wine sales area is closed to free and unrestricted entry by the general
180 public.

181 (2) A license issued under this subsection and the licensee holding the license are subject
182 to all other provisions of this article and the rules and orders of the commissioner relating to the
183 special license: *Provided*, That the commissioner may by rule or order grant certain waivers or
184 exceptions to those rules or orders required by the circumstances of each professional baseball
185 stadium. The commissioner may revoke or suspend any license issued pursuant to this section
186 prior to any notice or hearing notwithstanding §60-8-27 and §60-8-28 of this code: *Provided*,
187 *however*, That under no circumstances may §60-8-20(c) or §60-8-20(d) of this code be waived nor
188 shall any exception be granted concerning those subsections.

189 (3) The commissioner may propose legislative rules for promulgation in accordance with
190 §29A-3-1 *et seq.* of this code to implement this subsection.

191 (j) A license to sell wine granted to a private wine venue ~~bed and breakfast~~, ~~private wine~~
192 ~~restaurant~~, ~~private wine spa~~, or a private club type under the provisions of this article entitles the
193 operator to sell and serve wine, for consumption on the premises of the licensee, when the sale
194 accompanies the serving of food or a meal to its members and their guests in accordance with the
195 provisions of this article: *Provided*, That a licensed private wine venue ~~bed and breakfast~~, ~~private~~
196 ~~wine restaurant~~, ~~private wine spa~~, or a private club type may permit a person over 21 years of age
197 to purchase wine, consume wine, and recork or reseal, using a tamper resistant cork or seal, up to
198 two separate bottles of unconsumed wine in conjunction with the serving of food or a meal to its
199 members and their guests in accordance with the provisions of this article and in accordance with
200 rules promulgated by the commissioner for the purpose of consumption of the wine off premises:
201 *Provided, however*, That a licensed private wine venue ~~restaurant~~ or a private club type may offer
202 for sale, for consumption off-premises, sealed bottles of wine to its customers provided that no
203 more than one bottle is sold per each person over 21 years of age, as verified by the private wine
204 venue ~~restaurant~~ or private club type, for consumption off-premises. The licensees may keep and
205 maintain on its premises a supply of wine in quantities appropriate for the conduct of operations
206 thereof. Any sale of wine is subject to all restrictions set forth in §60-8-20 of this code. A private
207 wine venue ~~restaurant~~ may also be licensed as a Class A retail dealer in nonintoxicating beer as
208 provided by §11-16-1 *et seq.* of this code and notwithstanding the provisions of §11-16-1 et seq. of
209 this code, there shall be no additional fee for the Class A retail dealer license, and any other
210 nonintoxicating beer or nonintoxicating craft beer services or privileges available to such Class A
211 on-premises licenses as set forth in §11-16-1 et seq. of this code for no additional fee, but subject
212 to all requirements in §11-16-1 et seq. of this code.

213 (k) With respect to subsections (h), (i), (j), (o), and (p) of this section, the commissioner
214 shall propose legislative rules for promulgation in accordance with §29A-1-1 *et seq.* of this code,

215 including, but not limited to, the form of the applications and the suitability of both the applicant and
216 location of the licensed premises.

217 (l) The commissioner shall propose legislative rules for promulgation in accordance with
218 the provisions of §29A-1-1 *et seq.* of this code to allow ~~restaurants~~ private wine venues or private
219 club types to serve wine with meals and to sell wine by the bottle for off-premises consumption as
220 provided in subsection (j) of this section. ~~Each licensed restaurant shall be charged an additional~~
221 ~~\$100 per year fee.~~ There is no additional fee for this privilege, but the licensee must be in good
222 standing with the commissioner to retain the privilege.

223 (m) The commissioner shall establish guidelines to permit wines to be sold in all stores
224 licensed for retail sales.

225 (n) Wineries and farm wineries may advertise off premises as provided in §17-22-7 of this
226 code.

227 (o) A licensed wine ~~specialty shop~~ retailer with special wines under this article may also
228 hold a wine sampling license authorizing the wine ~~specialty shop~~ retailer to conduct special wine
229 sampling events at its location during regular hours of business. The wine ~~specialty shop~~ retailer
230 may serve up to six complimentary samples of wine, consisting of no more than three fluid ounces
231 each, to any one consumer per day. Persons serving the samples shall be 21 years of age or older
232 and an authorized representative of the licensed wine ~~specialty shop~~ retailer, winery, farm winery,
233 or a representative of a distributor or registered supplier. Distributor and supplier representatives
234 attending wine sampling events shall register with the commissioner. No licensee, employee, or
235 representative may furnish, give, sell, or serve samples of wine to any person less than 21 years of
236 age or to a person who is physically incapacitated due to the consumption of alcoholic liquor or the
237 use of drugs. The wine ~~specialty shop~~ retailer shall notify and secure permission from the
238 commissioner for all wine sampling events 30 days prior to the event. Wine sampling events may
239 not exceed six hours per calendar day. Licensees shall purchase all wines used during these
240 events from a licensed farm winery or a licensed distributor.

241 (p) The commissioner may issue special one-day licenses to duly organized, nonprofit
242 corporations and associations allowing the sale and serving of wine, and may, if applicable, also
243 allow the charitable auctioning of certain sealed bottles of wine for off-premises consumption only,
244 when raising money for athletic, charitable, educational, or religious purposes. "Auction or
245 auctioning", for the purposes of this subsection, means any silent, physical act, or verbal bid
246 auction, whether or not the auction requires in-presence bidding or online Internet-based
247 electronic bidding through a secure application or website, but shall not include any action in
248 violation of §47-20-10, §47-20-11, or §61-10-1 *et seq.* of this code. The license application shall
249 contain information required by the commissioner and shall be submitted to the commissioner at
250 least 30 days prior to the event. Accompanying the license application, the applicant shall submit a
251 signed and notarized statement that at least 80 percent of the net proceeds from the charitable
252 event will be donated directly to the nonprofit corporation or organization. Wines used during these
253 events may be donated by, or purchased from, a licensed retailer, a distributor, winery, or a farm
254 winery. A licensed winery or farm winery which is authorized in writing by a representative of the
255 duly organized, nonprofit corporation or association which has obtained the one-day license; is in
256 good standing with the state; and obtains the commissioner's approval prior to the one-day license
257 event may, in conjunction with the one-day licensee, exhibit, conduct complimentary tastings, sell
258 samples not to exceed six, three-fluid ounce tastings or samples per patron, sell wine by the glass
259 or by the bottle, when consumed by the glass, for consumption on-premises during the operation
260 of the one-day license event, and may sell certain sealed wine bottles manufactured by the
261 licensed winery or farm winery for off-premises consumption: *Provided*, That for a licensed winery
262 or farm winery at a licensed one-day event, the tastings, samples, on-premises sales, and off-
263 premises sales of its wine shall occur under the hours of operation permitted by this article, except
264 on Sunday, tastings, samples, on-premises sales, and off-premises sales of its wine are unlawful
265 between the hours of 2:00 a.m. and 6:00 a.m., from the one-day licensee's submitted floor plan for
266 the event subject to the requirements in the code and rules. Under no circumstances may the

267 provisions of §60-8-20(c) or §60-8-20(f) of this code be waived nor may any exception be granted
268 with respect to those subsections.

269 (q)(1) In addition to the authorization granted to licensed wineries and farm wineries in
270 subsections (h) and (p) of this section, an unlicensed winery, regardless of its designation in
271 another state, that is duly licensed in its domicile state, may pay a \$150 nonrefundable and non-
272 prorated fee and submit an application for temporary licensure on a one-day basis for temporary
273 sampling and sale of wine in sealed containers for off-premises consumption at a special one-day
274 license nonprofit event.

275 (2) The application shall include, but is not limited to, the person or entity's name, address,
276 taxpayer identification number, and location; a copy of its licensure in its domicile state; a signed
277 and notarized verification that it produces 50,000 gallons or less of wine per year; a signed and
278 notarized verification that it is in good standing with its domicile state; copies of its federal
279 certificate of label approvals and certified lab alcohol analysis for the wines it desires to temporarily
280 provide samples and temporarily sell wine in sealed containers for off-premises consumption at a
281 special one-day license for a nonprofit event issued under subsection (p) of this section; and any
282 other information as the commissioner may reasonably require: *Provided*, That the background
283 investigation requirement set forth in §60-8-16 of this code is inapplicable to licenses authorized
284 by this subdivision.

285 (3) The applicant winery shall include a list of all wines proposed to be temporarily sampled
286 and temporarily sold by the glass or bottle, when consumed by the glass, for on-premises
287 consumption or in sealed containers for off-premises consumption at a special one-day license for
288 a nonprofit event so that the wines may be reviewed in the interest of public health and safety.
289 Once approved, the submitted wine list creates a temporary wine brand registration for up to two
290 special one-day licenses for a nonprofit event for no additional fee.

291 (4) An applicant winery that receives this temporary special one-day license for a nonprofit
292 event shall provide the commissioner a signed and notarized written agreement acknowledging

293 that the applicant winery understands its responsibility to pay all municipal, local, and sales taxes
294 applicable to the sale of wine in West Virginia.

295 (5) An application must be submitted for each special one-day license for a nonprofit event
296 the applicant winery desires to attend, and the license fee shall cover up to two special one-day
297 licenses for nonprofit events before an additional fee is required. In no circumstance would the
298 winery be permitted to attend more than four special one-day licensed events. Any applicant or
299 unlicensed winery desiring to attend more than four special one-day license for nonprofit events
300 per year or otherwise operate in West Virginia would need to seek appropriate licensure as a
301 winery or a farm winery in this state.

302 (6) Notwithstanding the provisions of this article and requirements for licensure, wine
303 brand registration, payment of wine liter tax, and the winery's appointment of suppliers and
304 distributors, this temporary special one-day license for a nonprofit event, once granted, permits a
305 winery to operate in this limited capacity only at the approved specific, special one-day license for
306 a nonprofit event subject to the limitations contained in this section.

307 (7) The applicant winery shall also apply for and receive a transportation permit to legally
308 transport wine in the state per §60-6-12 of this code.

309 (8) The applicant winery is subject to all applicable violations and/or penalties under this
310 article and the legislative rules that are not otherwise excepted by this subsection: *Provided*, That
311 the commissioner may by rule or order provide for certain waivers or exceptions with respect to the
312 provisions, rules, or orders required by the circumstances of each fair or festival. The
313 commissioner may revoke or suspend any license issued pursuant to this article, prior to any
314 notice or hearing.

315 (r) The commissioner may issue special licenses to heritage fairs and festivals allowing the
316 sale, serving, and sampling of wine from a licensed farm winery. The license application shall
317 contain information required by the commissioner and shall be submitted to the commissioner at
318 least 30 days prior to the event. Wines used during these events may be donated by or purchased

319 from a licensed farm winery. Under no circumstances may the provision of §60-8-20(c) of this code
320 be waived nor may any exception be granted with respect thereto. The commissioner shall
321 propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code to
322 implement the provisions of this subsection.

323 (s)(1) The commissioner may issue a special license for the retail sale of wine in a college
324 or university stadium. A license to sell wine granted pursuant to this subsection entitles the
325 licensee to sell and serve wine for consumption in a college or university stadium. For the purpose
326 of this subsection, "college stadium" means a facility constructed primarily for the use of a Division
327 I, II, or III college or university that is a member of the National Collegiate Athletic Association, or
328 its successor, and used as a football, basketball, baseball, soccer, or other Division I, II, or III
329 sports stadium. A special license issued pursuant to this subsection shall be for a term beginning
330 on the date of its issuance and ending on the next following June 30, and its fee is \$250 regardless
331 of the length of the term of the license. The application for the special license shall contain
332 information required by the commissioner and must be submitted to the commissioner at least 30
333 days prior to the first day when wine is to be sold. The special license may be issued in the name of
334 the National Collegiate Athletic Association Division I, II, or III college or university or the name of
335 the primary food and beverage vendor under contract with that college or university. All sales must
336 take place within the confines of the college or university stadium: *Provided*, That the exterior of
337 the area where wine sales may occur shall be surrounded by a fence or other barrier prohibiting
338 entry except upon the college or university's express permission, and under the conditions and
339 restrictions established by the college or university, so that the wine sales area is closed to free
340 and unrestricted entry by the general public.

341 (2) A license issued under this subsection and the licensee are subject to the other
342 requirements of this article and the rules and orders of the commissioner relating to the special
343 license: *Provided*, That the commissioner may by rule or order grant certain waivers or exceptions
344 to those rules or orders as required by the circumstances of each the college or university stadium.

345 The commissioner may revoke or immediately suspend any license issued pursuant to this section
346 prior to any notice or hearing notwithstanding §60-8-27 and §60-8-28 of this code: *Provided,*
347 *however,* That §60-8-20(c) or §60-8-20(d) of this code may not be waived, nor shall any exception
348 be granted concerning those subsections.

349 (3) The commissioner may propose legislative rules for promulgation in accordance with
350 §29A-3-1 *et seq.* of this code to implement this subsection.

§60-8-3a. Certain ~~wine specialty shops~~ retailers operating as grocery stores authorized to deliver wine curbside, mobile applications, or web-based sales allowed; permits; fees.

1 (a) A ~~wine specialty shop~~ retailer which is licensed to sell wine off premises and which
2 operates a grocery store containing over \$100,000 of fresh produce and saleable food and food
3 products fit for human consumption in a combination of displayed and stored inventory may apply
4 for a Class B license privilege granting the licensee the ability to complete the sale of such wine in
5 the original sealed container for off-premises consumption to a person purchasing wine ordered
6 via a mobile application or web-based software program and picking up the wine from the licensee
7 while in a vehicle:

8 (a) (1) If the vehicle is parked in a licensed parking area which is contiguous to the Class B
9 licensee's licensed premises; or

10 (b) (2) If the vehicle is parked in a licensed parking area which is within 500 feet of the
11 Class B licensee's licensed premises;

12 (c) (3) The parking area referenced in subdivision (b) of this section shall be designated by
13 signage solely for the use of persons who have previously ordered items, including, but not limited
14 to, wine using a mobile application or web-based software program;

15 (d) (4) No wine may be loaded into a vehicle under this section unless the ~~wine specialty~~
16 shop retailer or the licensee's staff have verified that both the person placing the order and the

17 person picking up the order, if different from the person placing the order, is 21 years of age or
18 older and is not noticeably intoxicated;

19 (e) (5) To operate under this section a ~~wine specialty shop~~ retailer must be in good standing
20 with the commissioner, apply, qualify, pay the Class B license privilege fee, and obtain the permit
21 for the Class B licensee privilege for wine at a designated parking area. The Class B license
22 privilege permit is nonrefundable and a nonprorated annual fee is \$250;

23 (f) (6) The licensee is subject to all requirements, penalties, and sanctions of this article.

§60-8-6a. Direct shipper's license.

1 (a) Before sending any shipment of wine to a resident of West Virginia, the direct shipper
2 must first:

3 (1) File a license application with the commissioner with the appropriate background check
4 information, using forms required by the commissioner. Criminal background checks will not be
5 required of applicants licensed in their state of domicile who can provide a certificate of good
6 standing from their state of domicile;

7 (2) Pay to the commissioner either the \$150 license fee to ship and sell only wine, the \$250
8 license fee to ship and sell wine and nonfortified dessert wine, port, sherry, or Madeira wines, or
9 the \$300 multicapacity winery or farm winery license fee;

10 (3) Obtain a business registration number from the Tax Commissioner;

11 (4) Register with the office of the Secretary of State, if a corporation;

12 (5) Provide the commissioner a true copy of its current alcoholic beverage license issued in
13 the state of domicile, proving that the direct shipper is licensed in its state of domicile as a winery,
14 farm winery, supplier or retailer of wine;

15 (6) Obtain from the commissioner a direct shipper's license;

16 (7) Submit to the commissioner a list of all brands of wine to be shipped to West Virginia
17 residents; and

18 (8) Meet all other licensing requirements of this chapter and provide any other information
19 that the commissioner may reasonably require.

20 (b) All direct shipper licensees shall:

21 (1) Not ship more than two cases of wine per month to any person. A case is defined as any
22 combination of packages containing not more than nine liters of wine;

23 (2) Not ship to any address in an area identified by the commissioner as a "dry" or local
24 option area where it is unlawful to sell wine or alcoholic liquors;

25 (3) Not ship to any licensed suppliers, distributors, retailers, private wine venues, or private
26 club types; bed and breakfasts, private wine restaurants, private wine spas or wine specialty
27 shops;

28 (4) Not ship wine from overseas or internationally unless it is first shipped to a licensed
29 supplier or distributor;

30 (5) Ensure that all containers of wine shipped directly to a resident in this state are clearly
31 and conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON 21
32 OR OLDER REQUIRED FOR DELIVERY";

33 (6) File monthly returns to the commissioner and the Tax Commissioner showing the total
34 of wines, by type, sold, and shipped into West Virginia for the preceding month;

35 (7) Pay to the Tax Commissioner all sales taxes, municipal taxes, and the liter tax due on
36 sales and shipments to residents of West Virginia in the preceding month, the amount of such
37 taxes to be calculated as the sales were made in West Virginia at the location where delivery is
38 made;

39 (8) Permit the Tax Commissioner or commissioner or their designees to perform an audit of
40 the direct shipper's records upon request;

41 (9) Be deemed to have consented to the jurisdiction of the commissioner or any other state
42 agency, the Kanawha County circuit court located in Charleston, West Virginia, concerning
43 enforcement of this article and any other related laws, rules; and

44 (10) Provide proof or records to the commissioner, upon request, that all direct shipments
45 of wine were purchased and delivered to an adult resident of West Virginia over the age of twenty-
46 one years of age.

47 (c) The direct shipper may annually renew its license with the commissioner by application,
48 paying the direct shipper license fee, and providing the commissioner with a true copy of a current
49 alcoholic beverage license from the direct shipper's domicile state.

50 (d) The commissioner may promulgate rules to effectuate the purposes of this law.

51 (e) The commissioner may enforce the requirements of this section by administrative
52 proceedings to suspend or revoke a direct shipper's license, and the commissioner may accept
53 payment of a penalty or an offer in compromise in lieu of suspension, at the commissioner's
54 discretion.

55 (f) Shipments of wine direct to consumers in West Virginia from persons who do not
56 possess a current direct shipper's license or other permit or license from the commissioner are
57 prohibited. Any person who knowingly makes, participates in, transports, imports or receives such
58 an unlicensed and unauthorized direct shipment is guilty of a felony and, shall, upon conviction
59 thereof, be fined in an amount not to exceed \$10,000 per violation or shall be imprisoned in jail for
60 a period not to exceed ~~seventy-two~~ 72 hours. Without limitation on any punishment or remedy,
61 criminal or civil, any person who knowingly makes, participates in, transports, imports or receives
62 such a direct shipment constitutes an act that is an unfair trade practice.

§60-8-6b. Deliveries by licensed wine ~~specialty shop~~ retailer offering special wines.

1 (a) A wine ~~specialty shop~~ retailer offering special wines with a current active license and in
2 good standing with the commissioner may apply for the additional license privilege of delivering
3 wine with a gift basket, to the purchaser or other person designated by the purchaser, as provided
4 in this section.

5 (b) The wine ~~specialty shop~~ retailer offering special wines:

6 (1) May only deliver in the county where the wine ~~specialty-shop~~ retailer is located with all
7 sales and municipal taxes accounted for and paid, as long as such county is not a dry county or
8 such county does not contain dry local option areas. The delivery of wine is not permitted in a dry
9 county or the dry local option areas;

10 (2) Shall ensure that all wine delivered is sealed in the original container and is clearly and
11 conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON 21 OR
12 OLDER REQUIRED FOR DELIVERY";

13 (3) Shall provide proof or records to the commissioner by filing monthly returns to the
14 commissioner, on a form as prescribed by the commissioner, and the Tax Commissioner of all
15 deliveries of wine which were purchased by and delivered to a person at least 21 years of age in
16 the wine ~~specialty-shop's~~ retailer's county of operation;

17 (4) Shall only deliver wine with a gift basket to addresses within the State of West Virginia
18 and within the requirements noted in this subsection;

19 (5) Shall not deliver in excess of two cases of wine with a gift basket per month to any
20 person or address;

21 (6) Shall not deliver wine to any private club, type, private wine venue, or restaurant, wine
22 retailer, private wine bed and breakfast, or private wine spa tavern; and

23 (7) May only deliver wine with a gift basket for personal use and not for resale to a person.
24 The wine shall not be delivered and left at any address without verifying a person's age and
25 identification as required in this section.

26 (c) The nonprorated, nonrefundable fee for the additional wine ~~specialty-shop~~ retailer with
27 special wines delivery license privilege is \$250.

28 (d) The wine delivered by the authority of this section may be ordered or purchased by
29 telephonic, electronic, mobile, or web-based wine ordering when the purchaser is verified to be 21
30 years of age or older and must be delivered by an officer or employee of the wine ~~specialty-shop~~
31 retailer licensee who is 21 years of age or older. If the person receiving the delivery is not the

32 purchaser, the licensee must verify that the person receiving the wine is 21 years of age or older
33 and not noticeably intoxicated prior to completing the delivery. Nonlicensed third parties may not
34 deliver wine with a gift basket on behalf of a licensed wine ~~specialty shop~~ retailer.

35 (e) Any vehicle delivering wine in a gift basket shall meet the permit requirements set forth
36 in this chapter.

37 (f) The commissioner may propose rules for promulgation in accordance with §29A-3-1 *et*
38 *seq.* of this code to effectuate the purposes of this section.

**§60-8-6c. Winery and farm winery license to sell wine growlers and provide samples prior
to purchasing a wine growler.**

1 (a) Legislative findings. — The Legislature hereby finds that it is in the public interest to
2 regulate, control, and support the brewing, manufacturing, distribution, sale, consumption,
3 transportation, and storage of wine and its industry in this state to protect the public health,
4 welfare, and safety of the citizens of this state, and promote hospitality and tourism. Therefore, this
5 section authorizes a licensed winery or farm winery with its principal place of business and
6 manufacture located in this state to have certain abilities to promote the sale of wine manufactured
7 in this state for the benefit of the citizens of this state, the state's growing wine industry, and the
8 state's hospitality and tourism industry, all of which are vital components for the state's economy.

9 (b) Sales of wine. — A licensed winery or farm winery with its principal place of business
10 and manufacture located in the State of West Virginia may, when licensed under this section, offer
11 only wine manufactured by the licensed winery or farm winery for retail sale to customers from the
12 winery or farm winery's licensed premises for consumption off-premises only in the form of original
13 container sealed wine kegs, wine bottles, or wine cans, or also a sealed wine growler for personal
14 consumption, and not for resale. A licensed winery or farm winery may not sell, give, or furnish its
15 wine for consumption on the premises of the principal place of business and manufacture located
16 in the State of West Virginia, except for the limited purpose of samples as permitted in subsection
17 (c) of this section, for on-premises sales in accordance with §60-4-3b of this code, or for on-

18 premises sales when separately licensed as a private wine venue ~~restaurant~~ or a private venue -
19 alcohol manufacturer ~~club~~.

20 (c) Samples. — A licensed winery or farm winery with its principal place of business and
21 manufacture located in the State of West Virginia may offer samples of wine as set forth in §60-4-
22 3b of this code.

23 (d) Retail sales. — Every licensed winery or farm winery under this section shall comply
24 with all the provisions of this article as applicable to wine retailers when conducting wine growler
25 sales and is subject to all applicable requirements and penalties in this article.

26 (e) Payment of taxes and fees. — A winery or farm winery licensed under this section shall
27 pay all taxes and fees required of licensed wine retailers, in addition to any other taxes and fees
28 required, and shall meet applicable licensing provisions as required by this chapter and by rule of
29 the commissioner.

30 (f) Advertising. — A licensed winery or farm winery under this section may advertise a
31 particular brand or brands of wine produced by the licensed winery or farm winery and the price of
32 the wine subject to state and federal requirements or restrictions. The advertisement may not
33 encourage intemperance or target minors.

34 (g) Wine Growler defined. — For purposes of this section and section §60-8-6d of the
35 code, "wine growler" means a container or jug that is made of glass, ceramic, metal, or other
36 material approved by the commissioner, that may be no larger than 128 fluid ounces in size and is
37 capable of being securely sealed. The growler may be used by an authorized licensee for
38 purposes of off-premises sales only of wine for personal consumption, and not for resale. The wine
39 served and sold in a sealed wine growler may include ice or water mixed with the wine to create a
40 frozen alcoholic beverage. Any frozen alcoholic beverage machine used for filling wine growlers
41 shall be sanitized daily and shall be under control and served by the licensee from the secure area.
42 Notwithstanding any other provision of this code to the contrary, a securely sealed wine growler is
43 not an open container under state and local law. A wine growler with a broken seal is an open

44 container under state and local law unless it is located in an area of the motor vehicle physically
45 separated from the passenger compartment. For purpose of this article, a secure seal means
46 using a tamper evident seal, such as: (1) A plastic heat shrink wrap band, strip, or sleeve
47 extending around the cap or lid of wine growler to form a seal that is broken when the container is
48 opened; or (2) A screw top cap or lid that breaks apart when the wine growler is opened.

49 (h) Wine Growler requirements. — A winery or farm winery licensed under this section
50 shall prevent patrons from accessing the secure area where the winery or farm winery fills a wine
51 growler and prevent patrons from filling a wine growler. A licensed winery or farm winery under this
52 section shall sanitize, fill, securely seal, and label any wine growler prior to its sale. A licensed
53 winery or farm winery under this section may refill a wine growler subject to the requirements of
54 this section. A winery or farm winery shall visually inspect any wine growler before filling or refilling
55 it. A winery or farm winery may not fill or refill any wine growler that appears to be cracked, broken,
56 unsafe, or otherwise unfit to serve as a sealed beverage container.

57 (i) Wine Growler labeling. — A winery or farm winery licensed under this section selling
58 wine growlers shall affix a conspicuous label on all sold and securely sealed wine growlers listing
59 the name of the licensee selling the wine growler, the brand of the wine in the wine growler, the
60 alcohol content by volume of the wine in the wine growler, and the date the wine growler was filled
61 or refilled. All labeling on the wine growler shall be consistent with all federal labeling and warning
62 requirements.

63 (j) Wine Growler sanitation. — A licensed winery or farm winery authorized under this
64 section shall clean and sanitize all wine growlers it fills or refills in accordance with all state and
65 county health requirements prior to its filling and sealing. In addition, the licensed winery or farm
66 winery shall sanitize, in accordance with all state and county health requirements, all taps, tap
67 lines, pipelines, barrel tubes, and any other related equipment used to fill or refill growlers. Failure
68 to comply with this subsection may result in penalties under this article.

69 (k) Fee. — There is no additional fee for a licensed winery or farm winery authorized under
70 this section to sell wine growlers, but the licensee shall meet all other requirements of this section.

71 (l) Limitations on licensees. — To be authorized under this section, a licensed winery or
72 farm winery may not produce more than 10,000 gallons of wine per calendar year at the winery or
73 farm winery's principal place of business and manufacture located in the State of West Virginia. A
74 licensed winery or farm winery authorized under this section is subject to the applicable penalties
75 under this article for violations of this section.

76 (m) Rules. — The commissioner, in consultation with the Bureau for Public Health, may
77 propose legislative rules concerning sanitation for legislative approval, pursuant to §29A-3-1 *et*
78 *seq.* of this code, to implement this section.

**§60-8-6d. Wine retailer, ~~wine specialty shop~~, private wine venue, restaurant, ~~private wine~~
~~bed and breakfast~~, ~~private wine spa~~, Class B retail dealer, private club venue -
restaurant, private venue - alcohol manufacturer club, Class A retail licensee, and
Class B retail licensee's authority to sell wine growlers.**

1 (a) *Legislative findings.* — The Legislature hereby finds that it is in the public interest to
2 regulate, control, and support the brewing, manufacturing, distribution, sale, consumption,
3 transportation, and storage of wine and its industry in this state to protect the public health,
4 welfare, and safety of the citizens of this state and promote hospitality and tourism. Therefore, this
5 section authorizes a licensed wine retailer, ~~wine specialty shop~~, private wine venue, restaurant,
6 ~~private wine bed and breakfast~~, ~~private wine spa~~, private club venue - restaurant, private venue -
7 alcohol manufacturer, club, Class A retail licensee, or Class B retail licensee to have certain
8 abilities in order to promote the sale of wine manufactured in this state for the benefit of the citizens
9 of this state, the state's growing wine industry, and the state's hospitality and tourism industry, all of
10 which are vital components for the state's economy.

11 (b) *Sales of wine.* — A licensed wine retailer, ~~wine specialty shop~~, private wine venue,
12 restaurant, ~~private wine bed and breakfast~~, ~~private wine spa~~, private club venue - restaurant,

13 private venue - alcohol manufacturer club, Class A retail licensee, or Class B retail licensee who
14 ~~pays the fee in subsection (h) of this section~~ and meets the requirements of this section may offer
15 wine for retail sale to patrons from the licensed premises in a sealed wine growler for personal
16 consumption off of the licensed premises, and not for resale. Prior to the sale, the licensee shall
17 verify, using proper identification, that any patron purchasing wine is 21 years of age or over and
18 that the patron is not visibly intoxicated. ~~The nonprorated, nonrefundable annual fee to sell wine~~
19 ~~growlers is \$100.~~ There is no additional fee for wine growler sales.

20 (c) *Retail sales.* — Every licensee authorized under this section shall comply with all the
21 provisions of this article as applicable to wine retailers when conducting sales of wine in a wine
22 growler and is subject to all applicable requirements and penalties in this article.

23 (d) *Payment of taxes and fees.* — A licensee authorized under this section shall pay all
24 taxes and fees required of licensed wine retailers, in addition to any other taxes and fees required,
25 and meet applicable licensing provisions as required by this chapter and by rule of the
26 commissioner.

27 (e) *Advertising.* — A licensee authorized under this section may advertise a particular
28 brand or brands of wine and the price of the wine, subject to state and federal requirements or
29 restrictions. The advertisement may not encourage intemperance or target minors.

30 (f) *Wine Growler defined and requirements.* — A licensee authorized under this section
31 shall use the wine growler definition and requirements in §60-8-6c(g) and §60-8-6c(h) of this code.

32 (g) *Wine Growler labeling and sanitation.* — A licensee authorized under this section shall
33 label and sanitize wine growlers as set forth in §60-8-6c(i) and §60-8-6c(j) of this code.

34 (h) *Complimentary samples.* — A licensee authorized under this section may provide
35 complimentary wine growler samples to a person intending to purchase a wine growler which may
36 be no greater than two fluid ounces per wine growler sample and a wine growler sampling shall not
37 exceed three complimentary two fluid ounce samples per patron per day. A licensee authorized
38 under this section providing complimentary wine samples shall, prior to providing any samples,

39 verify that the patron sampling wine is 21 years of age or older and that the patron is not visibly or
40 noticeably intoxicated.

41 (i) *Limitations on licensees.* — A licensee under this section may only sell wine growlers
42 during the hours of operation set forth in this article. Any licensee licensed under this section shall
43 maintain a secure area for the sale and filling of wine in a wine growler. The secure area shall only
44 be accessible by the licensee. Any licensee licensed under this section is subject to the applicable
45 penalties under this article for violations.

46 (j) *Non-applicability of certain statutes.* — Notwithstanding any other provision of this
47 article to the contrary, licensees under this section are permitted to break the seal of the original
48 container for the limited purpose of filling a wine growler or providing complimentary wine samples
49 as provided in this section. Any unauthorized sale of wine or any consumption not permitted on the
50 licensee's licensed premises is subject to penalties under this article.

51 (k) *Rules.* — The commissioner may propose legislative rules for legislative approval,
52 pursuant to §29A-3-1 *et seq.* of this code, to implement this section.

**§60-8-6g. Special privilege of Class A private wine venue restaurant licensee to operate
separate, but connected, Class B wine retailer specialty ~~shop~~ license.**

1 A Class A private wine venue - restaurant licensee may, in the commissioner's discretion,
2 operate Class B wine ~~specialty shop~~ retailer license for the off-premises sale of nonintoxicating
3 beer and wine in a connected but separately operated area of the Class A private wine ~~restaurant~~
4 venue -restaurant's licensed premises: *Provided*, That each business is licensed separately and
5 operates separate cash registers and maintains separation barriers between the different licensed
6 operations. A licensee who fails to license two inner-connected businesses subjects the licensee
7 to the penalties under this article.

§60-8-16. Application for license.

1 (a) Any person desiring a license under this article shall file a written application for a
2 license with the commissioner and in the application shall state under oath:

3 (1) The name of the applicant, including his or her trade name if any, his or her residence
4 address, and the length of his or her residence;

5 (2) The address of the place of business for which the license is desired, or other
6 description that definitely locates it; and that the place of business conforms to all health and fire
7 laws and regulations applicable thereto;

8 (3) The name of the owner of the premises upon which the business is to be conducted
9 and, if the owner is not the applicant, that the applicant is the bona fide lessee of the business;

10 (4) If the application is for a retailer's license, that the applicant is the proprietor or owner of
11 a bona fide grocery store, retailer, private wine venue, or private club type; ~~bed and breakfast,~~
12 ~~private wine restaurant, private wine spa, or wine specialty shop~~;

13 (5) That the applicant intends to carry on the business authorized by the license for himself
14 or herself or under his or her immediate supervision or direction;

15 (6) That the applicant is a citizen of the United States;

16 (7) That the applicant shall include a manager on the applicant's license application, or a
17 licensee's renewal application, and further that the manager shall meet all other requirements of
18 an applicant for licensure set forth in this section, including, but not limited to, United States
19 citizenship or naturalization, passing a background investigation, being at least 21 years of age,
20 being a suitable person, being of good morals and character, and other requirements, all as set
21 forth in the code and the legislative rules, in order for the manager to be able to meet and conduct
22 any regulatory matters, including, but not limited to: Licensure or enforcement matters related to
23 the applicant or licensee all in the interest of protecting public health and safety and being a
24 suitable applicant or licensee. In order to maintain active licensure, any change by a licensee in
25 any manager listed on an application must be made immediately to the commissioner, in order to
26 verify that the new manager meets licensure requirements;

27 (8) That the applicant is not less than 21 years of age;

28 (9) That the applicant has not been convicted of a felony or other crime involving moral
29 turpitude within the three years next preceding the filing of the application; and that he or she has
30 not, within the two years next preceding the filing of the application, been convicted of violating the
31 liquor laws of any state or of the United States;

32 (10) That the applicant has not during the five years next preceding the date of said
33 application had any license revoked under this chapter or under the liquor laws of any other state;

34 (11) If the applicant is a firm, association, partnership, limited partnership, limited liability
35 company, or corporation, the application shall state the matters required in subdivisions (6), (8),
36 (9), and (10) of this subsection, with respect to each of the members and the manager thereof, and
37 each of said members and the manager must meet all the requirements in said subdivisions;

38 (12) If the applicant is a corporation, organized or authorized to do business in this state,
39 the application shall state the matters required in subdivisions (6), (8), (9), and (10) of this
40 subsection, with respect to the manager and each of the officers and directors thereof, and any
41 stockholder owning 20 percent or more of the stock of the corporation and any other persons who
42 conduct and manage the licensed premises for the corporation. Each of said individuals must
43 meet all the requirements provided in those subdivisions except that the requirements as to
44 citizenship may not apply to the officers, directors, and stockholders of a corporation applying for a
45 retailer's license; and

46 (13) If the applicant for distributor's license is a trust or has a trust as an owner, the trustees
47 or other persons in active control of the activities of the trust relating to the license shall provide a
48 certification of trust as described in §44D-10-1013 of this code. This certification of trust shall
49 include the excerpts described in §44D-10-1013(e) of this code and shall further state, under oath,
50 the names, addresses, Social Security numbers, and birth dates of the beneficiaries of the trust
51 and certify that the trustee and beneficiaries are 21 years of age or older. If a beneficiary is not 21
52 years of age, the certification of trust must state that the beneficiary's interest in the trust is
53 represented by a trustee, parent, or legal guardian who is 21 years of age and who will direct all

54 actions on behalf of the beneficiary related to the trust with respect to the distributor until the
55 beneficiary is 21 years of age. Any beneficiary who is not 21 years of age or older shall have his or
56 her trustee, parent, or legal guardian include in the certification of trust and state under oath his or
57 her name, address, Social Security number, and birth date.

58 (14) Any other information that the commissioner may reasonably require of the applicant,
59 or licensee, or the applicant or licensee's manager.

60 The foregoing statements required in an application are mandatory prerequisites for the
61 issuance of a license.

62 The application must be verified by the owner, manager, or in the case of a firm,
63 partnership, limited partnership, limited liability company, association, or trust, the members,
64 officers, trustees, or other persons in active control of the activities of the limited liability company,
65 association, or trust relating to the license. The application of a corporation applying for a retailer's
66 license need be verified only by its president or vice president.

67 (b) In the case of an applicant that is a trust or has a trust as an owner, a distributor license
68 may be issued only upon submission by the trustees or other persons in active control of the
69 activities of the trust relating to the distributor license of a true and correct copy of the written trust
70 instrument to the commissioner for his or her review. Notwithstanding any provision of law to the
71 contrary, the copy of the written trust instrument submitted to the commissioner pursuant to this
72 section is confidential and is not a public record and is not available for release pursuant to the
73 West Virginia Freedom of Information Act codified in §29B-1-1 *et seq.* of this code.

PART IV. WINE RETAILERS.

§60-8-32. Where wine may be sold at retail.

1 Except as to sales permitted to be made by wineries or farm wineries that obtain a retailer's
2 license or private wine venue, ~~bed and breakfasts, private wine restaurants and private wine spas,~~
3 wine sold pursuant to this article may be sold at retail only by the commissioner and in and by
4 licensed retailers ~~and wine specialty shops~~ as defined by section two of this article.

§60-8-34. When retail sales prohibited.

1 It is unlawful for a retailer, winery, farm winery, ~~wine specialty shop retailer~~, wine distributor,
2 or private wine venue bed and breakfast, ~~private wine restaurant~~, or ~~private wine spa~~ licensee, his
3 or her servants, agents, or employees to sell or deliver wine between the hours of 2:00 a.m. and
4 6:00 a.m. or, it is unlawful for a winery, farm winery, or private wine venue, ~~bed and breakfast~~,
5 ~~private wine restaurant~~, or ~~private wine spa~~, his or her servants, agents, or employees to sell wine
6 between the hours of 2:00 a.m. and 1:00 p.m. in any county upon approval as provided for in §7-1-
7 3ss of this code, or between the hours of 2:00 a.m. and 6:00 a.m. on weekdays, Saturdays, and
8 Sundays.

ARTICLE 8A. MANUFACTURE AND SALE OF HARD CIDER.

**§60-8A-5. Winery or farm winery licensee's authority to manufacture, sell, and provide
samples; growler sales; advertisements; taxes; fees; rulemaking.**

1 (a) Sales of hard cider. — A licensed winery or farm winery with its principal place of
2 business or manufacturing facility located in the State of West Virginia may offer hard cider
3 manufactured by the licensed winery or farm winery for retail sale to customers from the winery's
4 or farm winery's licensed premises for consumption off-premises only in approved and registered
5 hard cider kegs, bottles, or cans, or also sealed wine growlers for personal consumption and not
6 for resale. A licensed winery or farm winery may not sell, give, or furnish hard cider for
7 consumption on the premises of the principal place of business or manufacturing facility located in
8 the State of West Virginia, except for the limited purpose of samples as permitted in subsection (b)
9 of this section. "Wine Growler" has the meaning set forth in §60-8-6c(g) of this code. Customers
10 may consume hard cider on-premises when an operator of a winery or farm winery is licensed as a
11 private wine venue restaurant or a private venue - alcohol manufacturer club.

12 (b) Samples. — A licensed winery or farm winery with its principal place of business or
13 manufacturing facility located in the State of West Virginia may offer samples of hard cider
14 manufactured at the winery's or farm winery's principal place of business or manufacturing facility

15 located in the State of West Virginia. The samples may be no greater than three fluid ounces per
16 sample per patron, and a sampling shall not exceed six complimentary three fluid ounce samples
17 per patron per day. A licensed winery or farm winery providing samples shall provide food, which
18 may be pre-packaged food not requiring kitchen preparation, items to the patron consuming the
19 samples; and prior to any sampling, verify, using proper identification, that the patron sampling is
20 21 years of age or older and that the patron is not noticeably or visibly intoxicated. The winery or
21 farm winery is subject to the hours of operation set forth in §60-8-34 of this code.

22 (c) Retail sales. — Every licensed winery or farm winery under this section shall comply
23 with all the provisions applicable to wine retailers when conducting sales of hard cider and is
24 subject to all applicable requirements and penalties. A winery or a farm winery holding a private
25 wine restaurant license or private manufacturer club license may offer for sale and service hard
26 cider by the drink or glass or cider by the bottle when consumed by the glass on the property of the
27 winery or farm winery. In the interest of promoting tourism throughout the state, every licensed
28 winery or farm winery manufacturing cider in this state is authorized, with a limited off-site retail
29 privilege at private fair and festivals, for off-premises consumption sales of the winery or farm
30 winery's sealed hard cider. At least five days prior to an approved private fair and festival, an
31 authorized winery or farm winery shall provide a copy of a written agreement to sell only hard cider
32 manufactured by the licensed winery or farm winery at the private fair and festival's licensed
33 premises. If approved, an authorized winery or farm winery may conduct on-premises and off-
34 premises consumption sales of their hard cider from a designated booth at the private fair and
35 festival as set forth in §60-7-8a of this code. All authorized and approved wineries and farm
36 wineries' on-premises and off-premises consumption sales of hard cider shall comply with all retail
37 requirements in §60-8-1 *et seq.* of this code and §60-8A-1 *et seq.* of this code, and specifically with
38 respect to all markups, taxes, and fees. Additionally, an authorized winery or farm winery may
39 provide, sell, and serve hard cider samples in the amounts set forth in subsection(b) of this
40 section, hard cider by the glass or drink, or hard cider by the bottle when consumed by the glass of

41 its hard cider for on-premises consumption to patrons who are 21 years of age and older and who
42 are not intoxicated.

43 (d) Payment of taxes and fees. — A licensed winery or farm winery under this section shall
44 pay all taxes and fees required of licensed wine retailers, in addition to any other taxes and fees
45 required, and meet applicable licensing provisions as required by law and by rule of the
46 commissioner.

47 (e) Advertising. — A licensed winery or farm winery may advertise a particular brand or
48 brands of hard cider produced by the licensed winery or farm winery and the price of the hard cider
49 subject to state and federal requirements or restrictions. The advertisement may not encourage
50 intemperance or target minors.

51 (f) Growler requirements. — A licensed winery or farm winery, if offering wine growler filling
52 services, shall meet the filling, labeling, sanitation, and all other wine growler requirements in §60-
53 8-6c of this code.

54 (g) Fee. — There is no additional fee for a licensed winery or farm winery authorized under
55 §60-8-6c of this code, to sell wine growlers, if a winery or farm winery only desires to sell hard cider
56 in the wine growler, and no other wine. ~~then the annual non-prorated and nonrefundable license~~
57 ~~fee is \$50.~~