

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**ENROLLED**

## **House Bill 4697**

BY DELEGATES PUSHKIN, FOSTER, SKAFF, HOWELL,

PYLES AND WESTFALL

[Passed March 7, 2020; in effect ninety days from  
passage.]



1 AN ACT to amend and reenact §60-1-5b of the Code of West Virginia, 1931, as amended; to  
2 amend said code by adding thereto a new section, designated §60-1-5d; to amend and  
3 reenact §60-4-3, §60-4-3a, and §60-4-15 of said code; and to amend and reenact §60-6-  
4 1 and §60-6-2 of said code, all relating to distilleries generally and micro-distilleries  
5 particularly; defining micro-distillery; establishing a production limit for a micro-distillery;  
6 establishing limits on sales of alcoholic liquors manufactured by a micro-distillery;  
7 establishing a license fee for micro-distilleries; subjecting micro-distilleries to the same  
8 requirements and restrictions applicable to distilleries and mini-distilleries; and correcting  
9 an incorrect gallonage limit for mini-distilleries.

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

## **CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.**

### **ARTICLE 1. GENERAL PROVISIONS.**

#### **§60-1-5b. Mini-distilleries defined.**

1 For the purpose of this chapter: "Mini-distillery" means an establishment where in any year  
2 no more than 50,000 gallons of alcoholic liquor is manufactured with no less than 25% of raw  
3 agricultural products being produced by the owner of the mini-distillery on the premises of that  
4 establishment, and no more than 25% of raw agricultural products originating from any source  
5 outside this state: *Provided*, That the maximum allotted production amounts shall not exceed the  
6 annual incremental production limitations provided for pursuant to section three-a of this article.

#### **§60-1-5d Micro-distilleries defined.**

1 For the purposes of Chapter 60 of this code "Micro-distillery" means an establishment  
2 where in any one year no more than 10,000 gallons of alcoholic liquor is manufactured and no  
3 more than 25% of raw agricultural products used in production may originate from outside this  
4 state is used in distillation.

#### **§60-4-3. To whom licensed manufacturer may sell.**

1           A person who is licensed to manufacture alcoholic liquors in this state may sell liquors in  
2 this state only to the West Virginia Alcohol Beverage Control Commissioner and to wholesalers  
3 and retailers licensed as provided in this chapter: *Provided*, That a holder of a winery or a farm  
4 winery license may sell wines and a holder of a distillery, mini-distillery, or micro-distillery license  
5 may sell alcoholic liquors manufactured by it in this state in accordance with the provisions of §60-  
6 6-2 of this code. Hours of retail sale by a winery or a farm winery or distillery, mini-distillery or  
7 micro-distillery are subject to regulation by the commissioner. A winery, distillery, farm winery, or  
8 mini-distillery may sell and ship alcoholic liquors outside of the state subject to provisions of this  
9 chapter.

**§60-4-3a. Distillery and mini-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 free complimentary samples offered pursuant to §60-  
4 6-1 of this code, customers are prohibited from consuming any liquor on the premises of the  
5 distillery, mini-distillery, or micro-distillery: *Provided*, That a licensed distillery, mini-distillery, or  
6 micro-distillery may offer complimentary samples per this subsection of alcoholic liquors  
7 manufactured by that licensed distillery, mini-distillery, or micro-distillery for consumption on the  
8 premises only on Sundays beginning at 10:00 a.m. in any county in which the same has been  
9 approved as provided for in §7-1-3pp of this code.

10           (b) *Retail sales.* — Every licensed distillery, mini-distillery, or micro-distillery shall comply  
11 with the provisions of sections nine, eleven, thirteen, sixteen, seventeen, eighteen, nineteen,  
12 twenty-two, twenty-three, twenty-four, twenty-five and twenty-six, article three-a of this chapter  
13 and the provisions of articles three and four of this chapter applicable to liquor retailers and  
14 distillers.

15           (c) *Payment of taxes and fees.* — The distillery, mini-distillery, or micro-distillery shall pay  
16 all taxes and fees required of licensed retailers and meet applicable licensing provisions as

17 required by this chapter and by rule of the commissioner, except for payments of the wholesale  
18 markup percentage and the handling fee provided by rule of the commissioner: *Provided*, That all  
19 liquor for sale to customers from the distillery, mini-distillery, or micro-distillery for off-premises  
20 consumption shall be subject of a five percent wholesale markup fee and an 80 cents per case  
21 bailment fee to be paid to the commissioner: *Provided, however*, That no liquor sold by the  
22 distillery, mini-distillery, or micro-distillery shall be priced less than the price set by the  
23 commissioner pursuant §60-3A-17 of this code.

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

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

**§60-4-15. Amount of license fees.**

1           A person to whom a license is issued under the provisions of this chapter shall pay  
2 annually to the commissioner a license fee as follows, for:

3           (1) Distilleries, \$1,500;

4           (2) Wineries, \$1,500;

5           (3) Breweries, \$1,500;

6           (4) Bottling plants, \$100;

7           (5) Wholesale druggists, \$50;

8           (6) Institutions, \$10;

9           (7) Industrial use, \$50;

10          (8) Industrial plants producing alcohol, \$250;

11          (9) Retail druggists, \$10;

12          (10) Farm wineries, \$50;

13          (11) Mini-distilleries, \$50;

14          (12) Micro-distillers, \$750.

**ARTICLE 6. MISCELLANEOUS PROVISIONS**

**§60-6-1. When lawful to possess, use or serve alcoholic liquors.**

1           The provisions of this chapter may not prevent:

2           (1) A person from keeping and possessing alcoholic liquors in his or her residence for the  
3 personal use of himself or herself, his or her family, his or her employee, or his or her guests if  
4 the alcoholic liquors have been lawfully acquired by him or her;

5           (2) A person, his or her family, or employee from giving or serving such alcoholic liquors  
6 to guests in the residence, when the gift or service is not for the purpose of evading the provisions  
7 of this chapter;

8           (3) The holder of a winery or a farm winery license from serving complimentary samples  
9 of its wine in moderate quantities for tasting on the winery or the farm winery premises; and

10 (4) The holder of a distillery, mini-distillery, or a micro-distillery license from serving  
11 complimentary samples of its alcoholic liquor in moderate quantities for tasting on the distillery,  
12 mini-distillery, or micro-distillery premises.

**§60-6-2. When lawful to manufacture and sell wine and cider.**

1 The provisions of this chapter may not prevent:

2 (1) A person from manufacturing wine at his or her residence for consumption at his or her  
3 residence as permitted by §60-6-1 of this code.

4 (2) A person from manufacturing and selling unfermented cider;

5 (3) A person from manufacturing and selling cider made from apples produced by him or  
6 her within this state to persons holding distillery licenses, if the manufacture and sale is under the  
7 supervision and regulation of the commissioner;

8 (4) A person from manufacturing and selling wine made from fruit produced by him or her  
9 within this state to persons holding winery licenses, if the manufacture and sale is under the  
10 supervision and regulation of the commissioner;

11 (5) The holder of a winery or a farm winery license from selling wine for off-premises  
12 consumption sold at retail at the winery or the farm winery, as provided in §60-3B-4 of this code,  
13 or for any other person who is licensed under this chapter to sell wine as a wine supplier or  
14 distributor; and

15 (6) The holder of a distillery, mini-distillery, or micro-distillery license from selling alcoholic  
16 liquor for off-premises consumption sold at retail at the distillery, mini-distillery, or micro-distillery,  
17 as provided in §60-3A-4 of this code.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2020.

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*Governor*