WEST VIRGINIA CODE CHAPTER 60 ARTICLE 2

WV Legislature

§60-2-1. Office created; powers and functions generally; office of liquor control commissioner abolished and powers transferred.

To accomplish the purposes of this chapter there is hereby created the office of West Virginia Alcohol Beverage Control Commissioner. The commissioner shall have and is hereby granted all of the powers and authority and shall perform all of the functions and services heretofore vested in and performed by the West Virginia liquor control commissioner. The office of the West Virginia liquor control commissioner is hereby abolished. Wherever in this chapter and elsewhere in law reference is made to the West Virginia liquor control commissioner or liquor control commission such reference shall henceforth be construed and understood to mean the West Virginia Alcohol Beverage Control Commissioner. All parts and provisions of this chapter rendered meaningless and inapplicable by the provisions hereof are hereby modified and amended so that the provisions of this chapter will be consistent and harmonious in their entirety.

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§60-2-2. Appointment of commissioner.

The commissioner shall be appointed by the Governor, with the advice and consent of the Senate, and shall devote his entire time to the duties of his office.

WV Legislature

§60-2-3. Term of office; vacancy.

The commissioner shall be appointed for a term of four years and any appointment to fill a vacancy shall be for the unexpired term.

WV Legislature

§60-2-4.

Repealed.

Acts, 1991 Reg. Sess., Ch. 118.

WV Legislature

§60-2-5.

Repealed.

Acts, 1991 Reg. Sess., Ch. 118.

WV Legislature

§60-2-6.

Repealed.

Acts, 1991 Reg. Sess., Ch. 118.

WV Legislature

§60-2-7. Oath and bond.

Before entering upon the duties of the office, the commissioner shall take and subscribe to the oath prescribed by section 5, article IV, of the Constitution of this state, and shall give bond in the penalty of $25,000, to be approved by the Governor and conditioned upon the faithful performance of the duties of the office and the accounting for and payment into the treasury of all moneys coming into the commissioner's custody by virtue of the office. The bond and oath shall be filed with the Secretary of State.

WV Legislature

§60-2-8.

Repealed.

Acts, 1991 Reg. Sess., Ch. 118.

WV Legislature

§60-2-9. Salary and expenses.

The commissioner shall receive an annual salary as provided in section two-a, article seven, chapter six of this code, and shall be paid actual and necessary traveling expenses incurred in performance of the official duties of the office.

WV Legislature

§60-2-10.

Repealed.

Acts, 2003 Reg. Sess., Ch. 69.

WV Legislature

§60-2-11. Powers and duties.

The Alcohol Beverage Control Commissioner shall have the following powers and duties and any and all other powers and duties reasonably necessary and convenient for the purpose of this chapter:

(1) Exercise general supervision of, and make rules and regulations for, the management of his or her agency;

(2) Sign and execute in the name of the commissioner any contract or agreement authorized by this chapter;

(3) Supervise the fiscal affairs and responsibilities of the agency;

(4) With the approval of the Governor, acquire title to and purchase real estate containing 12.168 acres situate on River Road in the Hub Industrial Park, Nitro, Putnam County, which real estate is improved by block and steel building containing approximately one hundred fifty thousand (150,000) square feet, formerly known as the Heck's warehouse, for a sale price not to exceed $2,250,000;

(5) With the approval of the Governor and the board of public works, sell, in part or in whole, the real estate containing 12.168 acres and a warehouse situate on River Road in the Hub Industrial Park, Nitro, Putnam County, for a sale price of at least the appraised fair market value and upon terms the commissioner determines to be in the best interest of the State of West Virginia;

(6) With the approval of the Governor and the board of public works, and upon the sale of real estate containing 12.168 acres and a warehouse situate on River Road in the Hub Industrial Park, Nitro, Putnam County, acquire title to and purchase, upon terms the commissioner determines to be in the best interest of the State of West Virginia, real estate containing a replacement warehouse of a size and in a location that the commissioner determines meets the storage needs of the agency;

(7) Keep a complete and accurate record of all proceedings, record and file all bonds and contracts taken or entered into and assume responsibility for the custody and preservation of all papers and documents pertaining to the commissioner;

(8) Purchase or lease as provided by law all equipment necessary for the conduct of the agency;

(9) Report to the Governor each year all information relative to the operation and functions of the agency. The commissioner shall make such other reports and recommendations as may be required by the Governor;

(10) Exercise any other power that may be necessary or proper for the orderly conduct of the business and the effective discharge of the duties of the commissioner; and

WVLegislature

(11) Invoke any legal or equitable remedies for the enforcement of the orders of the commissioner or the provisions of this chapter.

WV Legislature

§60-2-12. Assistants and employees.

The commission shall appoint or employ such assistants and employees as may be necessary to the efficient operation of the department and fix their salaries. All assistants and employees shall be appointed or employed to serve during the will and pleasure of the commission.

WV Legislature

§60-2-13. Bonds of employees.

The commission shall require every employee who collects fees or handles funds, or who has custody of equipment, supplies, and other property belonging to the state, to take the oath prescribed by section 5, article IV of the state Constitution; and the commission shall require to be furnished by every employee, or shall itself obtain, a bond, insurance policy, indemnity contract, or other contract, protecting and indemnifying the state against any and all loss or damage that may be occasioned by the failure of the employee faithfully to perform the duties pertaining to his employment, and to account for, pay over and deliver to the proper officer or agent of the commission or state all moneys and other property which may come into his custody or under his control by virtue of his employment. Such bond, insurance policy, indemnity contract, or other contract, shall be in such form, and in such sum, and with such security, as may be prescribed or approved by the commission, and may cover any one employee or any number of employees. The premiums for all such bonds, insurance policies, indemnity contracts, or other contracts, shall be paid by the commission.

WV Legislature

§60-2-14. Authority to grant and revoke licenses.

The commission shall have the authority to grant and revoke licenses as provided in article four of this chapter.

WV Legislature

§60-2-15. Regulation of advertising.

The commission shall prescribe rules governing the advertising of alcoholic liquors in this state. The rules may only prohibit advertising that encourages intemperance, induces minors to purchase, or tends to deceive or misrepresent.

WV Legislature

§60-2-16. Rules and regulations.

The commission shall have the power to prescribe rules and regulations to give effect to the powers vested in it by this chapter. Rules and regulations shall be recorded in a book especially kept for that purpose, and in its discretion may be published for general circulation. All other records and entries necessary to show the official conduct of the commission shall be preserved and shall be public records and open for inspection during business hours.

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§60-2-17. Powers and duties exercised by employees.

All powers and duties vested in the commission, except the power to sign contracts, may be exercised by the appointees or employees of the commission under its direction; but the commission shall be responsible for their acts.

WV Legislature

§60-2-17a. Law enforcement cooperation.

In addition to the assistance of law enforcement provided under §15-2-12 of this code, the commissioner may obtain assistance in the enforcement of §11-16-1 et seq. and §60-1-1 et seq. of this code from county or municipal law-enforcement agencies by making a written request therefor. The assistance authorized by this section is limited only to accompanying the commissioner and his or her agents and may not be unreasonably withheld. Any law-enforcement officer acting pursuant to this section may further act upon crimes committed in his or her presence: Provided, That any officer so acting must be within his or her geographic jurisdiction, and nothing in this section authorizes any officer to act outside of the scope of his or her geographic jurisdiction.

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

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

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

WV Legislature

§60-2-18. Hearings and proceedings.

In all hearings and proceedings before the commission, the evidence of witnesses and the production of documentary evidence may be required. Summons may be issued by it for appearance at any designated place of hearing. In case of disobedience to a summons or other process, the commission or any party to the proceedings before the commission may invoke the aid of any circuit court in requiring the evidence and testimony of witnesses and the production of papers, bonds and documents. Upon proper showing, the court shall issue an order requiring witnesses to appear before the commission, produce all books and papers, and give evidence touching the matter in question. Any person failing to obey the order may be punished by the court as for contempt. A claim that evidence may tend to incriminate the person giving the evidence shall not excuse him from testifying, but he shall not be prosecuted for any offense concerning which he is compelled to testify.

WV Legislature

§60-2-19. Legal services.

The Attorney General and the prosecuting attorneys of the several counties shall render to the commission, without additional compensation, such legal services as it may require of them in the discharge of its duties under the provisions of this chapter.

WV Legislature

§60-2-20. Civil responsibility.

The members of the commission shall not be civilly responsible for any act done or omitted in good faith in the discharge of duties imposed upon them by this chapter.

WV Legislature

§60-2-21. Audit.

At least every five fiscal years, the Legislative Auditor shall audit the affairs of the West Virginia Alcohol Beverage Control Commissioner and report the results of the audit to the Governor. The cost of the audit shall be paid from the operating fund.

WV Legislature

§60-2-22. Authority to utilize scanner technology in sales; authority to execute contracts relating thereto.

(a) The commissioner may, pursuant to section eleven of this article, authorize and establish standards for the use of scanner technology for the verification of age of purchasers of alcoholic beverages and wine as provided in article eight of this chapter, and nonintoxicating beer as provided for in article sixteen, chapter eleven of this code. Any scanner technology may not be used for the collection of personal identifiable information of any purchaser, which includes, but is limited to, drivers license number, social security number or other descriptive information contained on the license, other than the age of the purchaser.

(b) In addition to the commissioner's powers set forth in section eleven of this article, the commissioner may sign and execute in the name of the office of Alcohol Beverage Control Commissioner one or more contracts or agreements pertaining to the sale or licensing and promotion of proprietary scanner technology by the commissioner, or his or her designated contractual partner, to any interested person, upon terms the commissioner believes to be in the best interests of this state, and to amend, extend or terminate any contract or agreement: Provided, That all contracts are subject to the review process contained in section thirteen, article three, chapter five-a of this chapter.

(c) "Scanner technology" includes any device that uses technology intended to control the access of minors to alcohol and tobacco products and which is capable of:

(1) Capturing the information from a bar code or magnetic strip on a driver's license or identification card issued by the Division of Motor Vehicles;

(2) Producing a declaration of age in print form and storing a record of the event in memory;

(3) Producing an audible, visual and printed result;

(4) Reporting a history of the events, including the ability to transfer the data for archiving and database development purposes; and

(5) Storing at least one thousand events at any time before data is transferred.

(d) Moneys derived from the sale, licensing and promotion of the proprietary scanner technology shall be deposited in a special account in the state Treasury to be known as the "Scanner Technology Fund." Expenditures from the fund shall be for the maintenance and development of the proprietary scanner technology described in this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter five-a of this code: Provided, That for the fiscal year ending June 30, 2004, expenditures are authorized from collections rather than pursuant to an appropriation by the Legislature.

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