

# WEST VIRGINIA CODE: §64-7-1

## **§64-7-1. Alcohol Beverage Control Administration.**

The legislative rule filed in the State Register on August 20, 2024, authorized under the authority of §60-7-10 of this code, relating to the Alcohol Beverage Control Administration (private club, 175 CSR 02), is authorized with the following amendment: On page 13, paragraph 2.30.9, after the words "(iv) canned or packaged food valued at least" by deleting "\$100" and inserting in lieu thereof "\$50".

And,

On page 24, by striking out all of paragraph 3.2.1.a., and inserting in lieu thereof a new paragraph 3.2.1.a. to read as follows:

3.2.1.a. That is located on any college campus, state university campus, or branch thereof, unless it is located in an on-campus structure listed on the National Register of Historic Places located within a designated National Historic Landmark District or such private club type is located upon the premises of a National Collegiate Athletic Association, or its successor, approved Division I, II, or III sports stadium used for revenue generating sports by a college or university on its campus and no classes are held at the sports stadium or at a private college sports stadium.

And,

On page 34, subparagraph 3.4.7.c by striking out "2.22.5" and inserting in lieu thereof "2.25.5".

And,

On page 37, subsection 3.4.12.e, line six, following the words "commissioner's requirements" and the period, by inserting a new sentence to read as follows: "Furthermore, where a municipality has authorized sidewalk dining areas by ordinance, a qualified permit holder has obtained a sidewalk dining permit from the municipality and the Commissioner, and additionally the municipality has authorized by ordinance that a qualified permit holder in the PODA may provide for the lawful sale, service, and tendering of alcohol (such alcohol as authorized for sale by the licensee's license) from an approved sidewalk dining area in approved PODA cups to patrons, and the qualified permit holder has added the sidewalk dining area or areas as a part of its WVABCA floorplan comprising its licensed premises, then such qualified permit holder may conduct such lawful sales, service, and tendering of alcohol (such alcohol as authorized for sale by the licensee's license) from the sidewalk dining area or areas without the dining requirement for such to-go alcoholic beverage sales."

And,

On page 39, paragraph 4.2.3, after the word “A” by inserting the word “valid”.

And,

On page 39, paragraph 4.2.3 by deleting the word “card”.

And,

On page 39, paragraph 4.2.4, after the word “A” by inserting the word “valid”.

And,

On page 39, paragraph 4.5.5 by striking out the word “The” and inserting in lieu thereof the words “In each public restroom the”.

And,

(a) On page 48, subparagraph 5.1.1.h by striking out the words “in a position where the primary responsibility for such employment is to sell, furnish, tender, serve, or give nonintoxicating beer, wine, or alcoholic liquors to any person;” and inserting in lieu thereof the words “in any capacity that includes, even incidentally, the selling, furnishing, tendering, serving, or giving of nonintoxicating beer, wine, or alcoholic liquors to any person;”

On page twenty-seven, subsection 3.4.12.e, line six, following the words “commissioner’s requirements” and the period, by inserting a new sentence to read as follows: “Furthermore, where a municipality has authorized sidewalk dining areas by ordinance, a qualified permit holder has obtained a sidewalk dining permit from the municipality and the Commissioner, and additionally the municipality has authorized by ordinance that a qualified permit holder in the PODA may provide for the lawful sale, service, and tendering of alcohol (such alcohol as authorized for sale by the licensee’s license) from an approved sidewalk dining area in approved PODA cups to patrons, and the qualified permit holder has added the sidewalk dining area or areas as a part of its WVABCA floorplan comprising its licensed premises, then such qualified permit holder may conduct such lawful sales, service, and tendering of alcohol (such alcohol as authorized for sale by the licensee’s license) from the sidewalk dining area or areas without the dining requirement for such to-go alcoholic beverage sales.”

(b) The legislative rule filed in the State Register on August 20, 2024, authorized under the authority of §60-8-23 of this code, modified by the Alcohol Beverage Control Administration to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 14, 2024, relating to the Alcohol Beverage Control Administration (sale of wine and hard cider, 175 CSR 04), is authorized.

(c) The legislative rule filed in the State Register on August 20, 2024, authorized under the

authority of §16-9A-8 of this code, relating to the Alcohol Beverage Control Administration (tobacco products in vending machines, 175 CSR 09), is authorized.

(d) The legislative rule filed in the State Register on August 20, 2024, authorized under the authority of §60-2-11 of this code, modified by the Alcohol Beverage Control Administration to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 14, 2024, relating to the Alcohol Beverage Control Administration (distilleries, mini-distilleries, and micro-distilleries, 175 CSR 10), is authorized with the following amendment:

On page five, subsection 3.3.2., line fourteen, following the words “\$.80 per case bailment fee” and the period, by striking out the remainder of subsection 3.3.2 and inserting the following: “In the interest of promoting tourism and for the pricing requirements set forth in the code, a distillery, mini-distillery, or micro-distillery conducting off-premises sales from its licensed premises must charge the additional 27% of the full 32% wholesale markup, plus bailment and delivery fees in calculating its wholesale cost prior to the applying the minimum retail markup to liquor purchased by patrons for off-premises personal consumption. The 27% of the 32% wholesale markup for off-premises sales at the distillery, mini-distillery, or micro-distillery’s licensed premises may be retained by the licensed distillery, mini-distillery, or micro-distillery from such sales. In the interest of promoting tourism, a distillery, mini-distillery, or micro-distillery is only required to remit to the WVABCA the 5% wholesale markup fee and \$.80 per case bailment fee for the number of bottles or cases of bottles sold from their licensed premises to the public for off-premises consumption. Such remittances for the first of the month through the 15th of the month shall occur on the 16th day of the month and from the 16th day of the month to the end of the month shall occur on the 1st day of the next month.”

(e) The legislative rule filed in the State Register on August 20, 2024, authorized under the authority of §19-12F-5 of this code, relating to the Alcohol Beverage Control Administration (retail enforcement of select plant-based derivatives and derivative products, including hemp and kratom, 175 CSR 11), is authorized.

(f) The legislative rule filed in the State Register on August 20, 2024, authorized under the authority of §11-16-22 of this code, modified by the Alcohol Beverage Control Administration to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 3, 2024, relating to the Alcohol Beverage Control Administration (nonintoxicating beer licensing and operations procedures, 176 CSR 01), is authorized.