WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled
Committee Substitute
for
Senate Bill 511

SENATORS TRUMP AND BOSO, original sponsors

[Passed March 7, 2019; in effect 90 days from passage]
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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §60-1-5c; to amend and reenact §60-4-3b of said code; to amend and reenact §60-8-3 and §60-8-17 of said code; and to amend said code by adding thereto two new sections, designated §60-8-3a and §60-8-6b, all relating to wine production and wine sales generally; creating alternating wine proprietorships for wineries and farm wineries and setting forth requirements for the proprietorships; authorizing farm entities in proprietorships to manufacture and sell wine; authorizing certain groceries to sell wine through mobile applications and web-based internet sales with at-store pickup; clarifying tasting, sampling, and sale procedures and requirements for wineries and farm wineries; permitting wineries or farm wineries to sell wine for on-premises and off-premises consumption at festivals and fairs; establishing a wine club license for festivals and fairs and setting forth requirements; permitting certain charitable events to auction wine bottles for off-premises consumption; defining terms; limiting number of charitable auction licenses; permitting the sale of wine in Division II and III college stadiums; authorizing wine specialty shops to obtain an additional license privilege to deliver wine with gift baskets and setting forth requirements; providing a 30-day requirement to issue or deny a completed license application; creating a reactivation fee for licensees that fail to timely file their renewal applications and pay their license fees; and authorizing the commissioner to propose rules for promulgation.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GENERAL PROVISIONS.

§60-1-5c. Alternating wine proprietorships; requirements and limitations.

(a) Notwithstanding the provisions of §60-1-5 of this code, a licensed winery or farm winery may be a party to an alternating wine proprietorship agreement subject to the provisions of this section. As used in this section, “alternating wine proprietorship agreement” means an agreement
between a licensed winery or farm winery and a farm entity which allows the farm entity to use
the premises of the licensed farm winery to produce wine.

(b) For an alternating wine proprietorship agreement to be lawful:

(1) The farm winery and the farm entity must be in compliance with applicable state laws
and rules promulgated thereunder;

(2) The agreement must be between a licensed winery or farm winery and a farm entity
located and operating in this state;

(3) The farm entity must produce agricultural products containing sugar as certified by the
Agriculture Commissioner and required by law;

(4) Wines produced by the parties must be maintained in separate bonded areas and shall
not be commingled;

(5) The farm entity participating in the agreement must separately meet all federal and
state requirements for a winery or farm winery;

(6) The farm entity party to the agreement may not produce more than 50,000 gallons of
wine and nonfortified dessert wine;

(7) Wine produced by the farm entity party to an agreement must be produced exclusively
by natural fermentation;

(8) If port, sherry, or madeira wines are produced by the farm entity party to the agreement,
a minimum of 25 percent of the agricultural products used to make the wine must be produced on
the farm entity's property and no more than 25 percent of the agricultural products used may
come from an out-of-state source; and

(9) Port, sherry, or madeira wine produced by a party to an alternating wine proprietorship
agreement may not exceed 22 percent alcohol by volume and must be matured in wooden barrels
or casks.

(c) The commissioner shall propose rules for promulgation in accordance with §29A-3-1
et seq. of this code necessary to effectuate the provisions of this section.
ARTICLE 4. LICENSES.

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

(a) An operator of a winery or farm winery may offer wine produced by the winery, farm winery, or a farm entity authorized by §60-1-5c of this code for retail sale to customers from the winery or farm winery for consumption off the premises only. Except for free complimentary samples offered pursuant to §60-6-1 of this code, customers are prohibited from consuming any wine on the premises of the winery, farm winery, or a farm entity authorized by §60-1-5c of this code unless such winery, farm winery, or farm entity has obtained a multi-capacity winery or farm winery license: Provided, That a licensed winery or farm winery may offer complimentary samples per this subsection of wine manufactured by that licensed winery or farm winery for consumption on the premises only on Sundays beginning at 10:00 a.m. in any county in which the same has been approved as provided in §7-1-3ss of this code.

(b) Complimentary samples allowed by the provisions of this section may not exceed two fluid ounces and no more than three such samples may be given to a patron in any one day.

(c) Complimentary samples may be provided only for on-premises consumption.

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

(e) A winery, farm winery, or farm entity licensed pursuant to §60-1-5c of this code holding a multicapacity license and a private wine restaurant license may offer wine by the drink or glass in a private wine restaurant located on the property of the winery, farm winery, or farm entity licensed pursuant to §60-1-5c of this code.

(f) Every licensed winery or farm winery shall comply with the provisions of §60-3-1 et seq., §60-4-1 et seq., and §60-8-1 et seq. of this code as applicable to wine retailers, wineries, and suppliers when properly licensed in such capacities.
(g) (1) The winery or farm winery shall pay all taxes and fees required of licensed wine retailers and meet applicable licensing provisions as required by this chapter and by rules promulgated by the commissioner.

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

(3) The five percent wine excise tax, levied pursuant to §60-3-9d of this code or pursuant to §8-13-7 of this code, may not be imposed or collected on purchases of wine in the original sealed package for the purpose of resale in the original sealed package if the final purchase of such wine is subject to the excise tax or if the purchase is delivered outside this state.

(4) No liter tax shall be collected on wine sold in the original sealed package for the purpose of resale in the original sealed package if a subsequent sale of such wine is subject to the liter tax.

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

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

(i) A winery or farm winery must maintain a separate winery or farm winery supplier, retailer, and direct shipper licenses when acting in one or more of those capacities and must pay all associated license fees, unless such winery or farm winery holds a license issued pursuant to the provisions of §60-8-3(b)(12) of this code. A winery or farm winery, if holding the appropriate licenses or a multicapacity winery or farm winery license, may act as its own supplier; retailer for off-premises consumption of its wine as specified in §60-6-2 of this code; private wine restaurant; and direct shipper for wine produced by the winery or farm winery. All wineries must use a distributor to distribute and sell their wine in the state, except for farm wineries. No more than one winery or farm winery license may be issued to a single person or entity and no person may hold
both a winery and a farm winery license. Wineries or farm wineries may enter into alternating wine
proprietorship agreements pursuant to §60-1-5c of this code.

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

ARTICLE 8. SALE OF WINES.

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

(a) No person may engage in business in the capacity of a winery, farm winery, supplier,
distributor, retailer, private wine bed and breakfast, private wine restaurant, private wine spa, or
wine specialty shop without first obtaining a license from the commissioner, nor shall a person
continue to engage in any activity after his or her license has expired, been suspended, or
revoked. No person may be licensed simultaneously as a distributor and a retailer. No person,
except for a winery or farm winery, may be licensed simultaneously as a supplier and a retailer.
No person may be licensed simultaneously as a supplier and a private wine bed and breakfast,
private wine restaurant, or a private wine spa. No person may be licensed simultaneously as a
distributor and a private wine bed and breakfast, a private wine restaurant, or a private wine spa.
No person may be licensed simultaneously as a retailer and a private wine bed and breakfast, a
private wine restaurant, or a private wine spa.

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

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

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

(3) One hundred fifty dollars per year for a retailer’s license;
(4) Two hundred fifty dollars per year for a wine specialty shop license, in addition to any other licensing fees paid by a winery or retailer holding a license. Except for the amount of the license fee and the restriction to sales of winery or farm winery wines, a winery, or farm winery acting as a wine specialty shop retailer is subject to all other provisions of this article which are applicable to a wine specialty shop retailer as defined in §60-8-2 of this code;

(5) One hundred fifty dollars per year for a wine tasting license;

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

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

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

(9) One hundred fifty dollars per year for a wine sampling license issued for a wine specialty shop under subsection (n) of this section;

(10) No fee shall be charged for a special one-day license under subsection (p) of this section or for a heritage fair and festival license under subsection (q) of this section;

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

(12) Three hundred dollars per year for a multicapacity winery or farm winery license which enables the holder to operate as a retailer, wine specialty shop, supplier, and direct shipper without obtaining an individual license for each capacity.
(c) The license period begins on July 1 of each year and ends on June 30 of the following year and if granted for a less period, the same shall be computed semiannually in proportion to the remainder of the fiscal year.

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

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

(f) A wine specialty shop under this article may also hold a wine tasting license authorizing the retailer to serve complimentary samples of wine in moderate quantities for tasting. Such wine specialty shop shall organize a wine taster’s club, which has at least 50 duly elected or approved dues-paying members in good standing. Such club shall meet on the wine specialty shop’s premises not more than one time per week and shall either meet at a time when the premises are closed to the general public or shall meet in a separate segregated facility on the premises to which the general public is not admitted. Attendance at tastings shall be limited to duly elected or approved dues-paying members and their guests.

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

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

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

(3) A licensed winery or a farm winery, which has the festival or fair licensee’s written authorization and approval from the commissioner, may, in addition to or in conjunction with the festival and fair licensee, exhibit, conduct complimentary tastings, or sell samples not to exceed three, two-fluid ounce, tastings or samples per patron, for consumption on the premises during the operation of a festival or fair only; and may sell wine for off-premises consumption only: Provided, That for licensed wineries or farm wineries at a licensed festival or fair the tastings, samples and off-premises sales shall occur under the hours of operation as required in this article, except on Sunday, tastings, samples, and off-premises sales are unlawful between the hours of 2:00 a.m. and 10:00 a.m.

(4) A festival or fair license may be issued to a “wine club” as defined in this subdivision for a license fee of $250. The festival or fair committee or the governing body shall designate a person to organize a club under a name which includes the name of the festival or fair and the words “wine club”. The license shall be issued in the name of the wine club. A licensee may not commence the sale of wine as provided in this subdivision until the wine club has at least 50 dues-paying members who have been enrolled, and to whom membership cards have been issued. Thereafter, new members may be enrolled and issued membership cards at any time during the period for which the license is issued. A wine club licensed under the provisions of this subdivision may sell wine only to its members, and in portions not to exceed eight ounces per serving. The sales shall take place on premises or in an area cordoned or segregated so as to be closed to
the general public, and the general public shall not be admitted to the premises or area. A wine
club licensee under the provisions of this subdivision may serve complimentary samples of wine
in moderate quantities for tasting. A wine club may not make wine purchases from a direct shipper
where the wine may be consumed on the licensed premises of any Class A private wine retail
license or private club. A wine club which violates the provisions of this subdivision is subject to
the penalties in this article.

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

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

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

(2) A license issued under this subsection and the licensee holding the license are subject to all other provisions of this article and the rules and orders of the commissioner relating to the special license: Provided, That the commissioner may by rule or order grant certain waivers or exceptions to those rules or orders as the circumstances of each professional baseball stadium may require, including, without limitation, the right to revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding §60-8-27 and §60-8-28 of this code: Provided, however, That under no circumstances may §60-8-20(c) or §60-8-20(d) of this code be waived nor shall any exception be granted concerning those subsections.

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

(j) A license to sell wine granted to a private wine bed and breakfast, private wine restaurant, private wine spa, or a private club under the provisions of this article entitles the operator to sell and serve wine, for consumption on the premises of the licensee, when the sale accompanies the serving of food or a meal to its members and their guests in accordance with the provisions of this article: Provided, That a licensed private wine bed and breakfast, private wine restaurant, private wine spa, or a private club may permit a person over 21 years of age to
purchase wine, consume wine, and recork or reseal, using a tamper resistant cork or seal, up to
two separate bottles of unconsumed wine in conjunction with the serving of food or a meal to its
members and their guests in accordance with the provisions of this article and in accordance with
rules promulgated by the commissioner for the purpose of consumption of said wine off premises:
Provided, however, That for this article, food or a meal provided by the private licensee means
that the total food purchase, excluding beverage purchases, taxes, gratuity, or other fees is at
least $15: Provided further, That a licensed private wine restaurant or a private club may offer for
sale, for consumption off the premises, sealed bottles of wine to its customers provided that no
more than one bottle is sold per each person over 21 years of age, as verified by the private wine
restaurant or private club, for consumption off the premises. Such licensees are authorized to
keep and maintain on their premises a supply of wine in quantities appropriate for the conduct of
operations thereof. Any sale of wine is subject to all restrictions set forth in §60-8-20 of this code.
A private wine restaurant may also be licensed as a Class A retail dealer in nonintoxicating beer
as provided by §11-16-1 et seq. of this code.
(k) With respect to subsections (h), (i), (j), (o), and (p) of this section, the commissioner
shall propose rules for promulgation in accordance with §29A-1-1 et seq. of this code, including,
but not limited to, the form of the applications and the suitability of both the applicant and location
of the licensed premises.
(l) The commissioner shall propose rules for promulgation in accordance with the
provisions of §29A-1-1 et seq. of this code to allow restaurants to serve wine with meals, and to
sell wine by the bottle for off-premises consumption as provided in subsection (j) of this section.
Each licensed restaurant shall be charged an additional $100 per year fee.
(m) The commissioner shall establish guidelines to permit wines to be sold in all stores
licensed for retail sales.
(n) Wineries and farm wineries may advertise off premises as provided in §17-22-7 of this
code.
(o) A wine specialty shop under this article may also hold a wine sampling license authorizing the wine specialty shop to conduct special wine sampling events at a licensed wine specialty shop location during regular hours of business. The wine specialty shop may serve up to three complimentary samples of wine, consisting of no more than two fluid ounces each, to any one consumer in one day. Persons serving the complimentary samples must be 21 years of age and an authorized representative of the licensed wine specialty shop, winery, farm winery, or a representative of a distributor or registered supplier. Distributor and supplier representatives attending wine sampling events must be registered with the commissioner. No licensee, employee, or representative may furnish, give, sell, or serve complimentary samples of wine to any person less than 21 years of age or to a person who is physically incapacitated due to the consumption of alcoholic liquor or the use of drugs. The wine specialty shop shall notify and secure permission from the commissioner for all wine sampling events one month prior to the event. Wine sampling events may not exceed six hours per calendar day. Licensees must purchase all wines used during these events from a licensed farm winery or a licensed distributor.

(p) The commissioner may issue special one-day licenses to duly organized, nonprofit corporations and associations allowing the sale and serving of wine, and may, if applicable, also allow the charitable auctioning of certain sealed bottles of wine for off-premises consumption only, when raising money for athletic, charitable, educational, or religious purposes. “Auction or auctioning”, for the purposes of this subsection, means any silent, physical act, or verbal bid auction, whether or not such auction requires in-presence bidding or online internet-based electronic bidding through a secure application or website, but shall not include any action in violation of §47-20-10, §47-20-11, or §61-10-1 et seq. of this code. The license application shall contain information required by the commissioner and shall be submitted to the commissioner at least 30 days prior to the event. Wines used during these events may be donated by, or purchased from, a licensed retailer, a distributor, winery, or a farm winery. A licensed winery or farm winery which is authorized in writing by a representative of the duly organized, nonprofit corporation and
association which has obtained the one-day license; is in good standing with the state; and obtains
the commissioner's approval prior to the one-day license event may, in conjunction with the one-
day licensee, exhibit, conduct complimentary tastings, or sell samples not to exceed of three, two-
fluid ounce tastings or samples per patron, for consumption on the premises during the operation
of the one-day license event; and may sell certain sealed wine bottles manufactured by the
licensed winery or farm winery for off-premises consumption: Provided, That for a licensed winery
or farm winery at a licensed one-day event, the tastings, samples and off-premises sales shall
occur under the hours of operation as required in this article, except on Sunday, tastings, samples,
and off-premises sales are unlawful between the hours of 2:00 a.m. and 10:00 a.m., from the one-
day licensee's submitted floor plan for the event subject to the requirements in the code and rules.
Under no circumstances may the provisions of §60-8-20(c) or §60-8-20(f) of this code be waived
nor may any exception be granted with respect to those subsections. No more than six licenses
may be issued to any single licensee during any calendar year.

(q) The commissioner may issue special licenses to heritage fairs and festivals allowing
the sale, serving, and sampling of wine from a licensed farm winery. The license application shall
contain information required by the commissioner and shall be submitted to the commissioner at
least 30 days prior to the event. Wines used during these events may be donated by or purchased
from a licensed farm winery. Under no circumstances may the provision of §60-8-20(c) of this
code be waived nor may any exception be granted with respect thereto. The commissioner shall
propose rules for legislative approval in accordance with §29A-3-1 et seq. of this code to
implement the provisions of this subsection.

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

(2) A license issued under this subsection and the licensee are subject to the other requirements of this article and the rules and orders of the commissioner relating to the special license: Provided, That the commissioner may by rule or order grant certain waivers or exceptions to those rules or orders as the circumstances of each the college stadium may require, including, without limitation, the right to revoke or immediately suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding §60-8-27 and §60-8-28 of this code: Provided, however, That §60-8-20(c) or §60-8-20(d) of this code may not be waived, nor shall any exception be granted concerning those subsections.

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

§60-8-3a. Certain wine specialty shops operating as grocery stores authorized to deliver wine curbside, mobile applications, or web-based sales allowed; permits; fees.
A wine specialty shop which is licensed to sell wine off premises and which operates a grocery store containing over $100,000 of fresh produce and saleable food and food products fit for human consumption in a combination of displayed and stored inventory may apply for a Class B license privilege granting the licensee the ability to complete the sale of such wine in the original sealed container for off-premises consumption to a person purchasing wine ordered via a mobile application or web-based software program and picking up the wine from the licensee while in a vehicle:

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

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

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

(d) No wine may be loaded into a vehicle under this section unless the wine specialty shop or the licensee’s staff have verified that both the person placing the order and the person picking up the order, if different from the person placing the order, is 21 years of age or older and is not noticeably intoxicated;

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

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

§60-8-6b. Deliveries by licensed wine specialty shop.

(a) A wine specialty shop with a current active license and in good standing with the commissioner may apply for the additional license privilege of delivering wine with a gift basket, to the purchaser or other person designated by the purchaser, as provided in this section.
(b) The wine specialty shop:

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

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

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

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

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

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

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

(c) The nonprorated, nonrefundable fee for the additional wine specialty shop delivery license privilege is $250.

(d) The wine delivered by the authority of this section must be purchased in-person with a face-to-face transaction at the shop; may not be ordered or purchased by telephonic, electronic, or web-based wine ordering; and must be delivered by an officer or employee of the wine specialty
shop licensee who is 21 years of age or older. Nonlicensed third parties may not deliver wine with a gift basket on behalf of a licensed wine specialty shop.

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

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

§60-8-17. License issuance or refusal; terms of license.

(a) Upon receipt of the completed application, fee, and bond if required, the commissioner shall conduct any investigation he or she considers necessary to determine the accuracy of the matters contained in the completed application. For the purposes of conducting such investigation, the commissioner may withhold the granting or refusal to grant a license for a period not to exceed 30 days or until the applicant has completed the conditions set forth in §60-8-16 of this code. If it appears that the applicant is a suitable person, is located at a suitable premise, there is no false statement, no material misrepresentations, no hidden ownership, no persons with an undisclosed pecuniary interest contained in the application, and that the issuance of the license would not be in conflict with any of the provisions of this chapter, the commissioner shall issue the license. Otherwise the commissioner shall refuse to issue such license.

(b) The commissioner shall refuse the license of any applicant if he or she finds that such applicant is not a suitable person, that the place of business of such applicant is not a suitable place, or that such applicant has not complied with the provisions of this chapter. Upon refusal to issue such license, the commissioner shall enter an order refusing such application. The refusal is final unless a hearing is requested in accordance with the provisions of §60-8-18 of this code. When such refusal becomes final the commissioner shall immediately refund to the applicant his or her fees and bond accompanying the application.

(c) The license expires on June 30 next following the date it was issued and may be renewed upon the same showing as required for the issuance of the initial license, together with the payment of fee and filing of any bond required by this article.
(d) A licensee that fails to complete a renewal application and make payment of its annual license fee in renewing its license on or before June 30 of any subsequent year, after initial application, shall be charged an additional $150 reactivation fee. The licensee must pay the applicable full-year annual license fee and the reactivation fee prior to the processing of any renewal application. A licensee who continues to operate upon the expiration of its license is subject to all fines, penalties, and sanctions available in §11-16-23 of this code, as determined by the commissioner.

(e) Such license shall not be transferred to another person, but the location of the premises to which the license relates may be changed with the written consent of the commissioner, if the new location satisfies the requirements of this article upon an initial application and payment of a new application fee.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Mark R. Maynard  
Chairman, Senate Committee

House Capito  
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

Joe Corin  
Clerk of the Senate

Steve Overton  
Clerk of the House of Delegates

Nate B. Connell  
President of the Senate

 Grocery  
Speaker of the House of Delegates

The within ... approved ... this the 25th Day of March  ... 2019.

Governor