

**Senate Bill No. 234**

(By Senators Love and White)

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[Introduced February 18, 2005; referred to the Committee  
on the Judiciary; and then to the Committee on Finance.]

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A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60-1-5b; to amend and reenact §60-4-2, §60-4-3 and §60-4-15; to amend and reenact §60-6-1 and §60-6-2 of said code; and to amend said code by adding thereto a new section, designated §60-6-26, all relating to creating and licensing minidistilleries; allowing the tasting and retail sale of liquor produced by a minidistillery at the licensed premise; and allowing minidistillery advertising off the licensed premises.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §60-1-5b; that §60-4-2, §60-4-3 and §60-4-15 be amended and reenacted; that §60-6-1 and §60-6-2 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §60-6-26, all to read as follows:

**ARTICLE 1. GENERAL PROVISIONS.**

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

For the purpose of this chapter: "Mini-distillery" means an establishment where, in any year, twenty thousand gallons or less of alcoholic liquor is manufactured with no less than twenty-five percent of raw products being produced by the owner of the mini-distillery on the premises of that establishment, and no more than twenty-five percent of raw products originating from any source outside this state.

**ARTICLE 4. LICENSES.**

**§60-4-2. Licenses for manufacture.**

The Commission may grant licenses for the manufacture of alcoholic liquors. Separate licenses shall be issued to the following classes of manufacturing establishments:

- (1) Distilleries, in which only alcoholic liquors other than wine or beer ~~shall be~~ is manufactured;
- (2) Wineries, in which only wines ~~shall be~~ is manufactured;
- (3) Breweries, in which beer ~~shall be~~ is manufactured;
- (4) Bottling plants, in which beer only ~~shall be~~ is bottled;
- (5) Industrial plants, in which alcohol is distilled, manufactured, or otherwise produced for scientific, chemical, mechanical, or industrial purposes; ~~and~~
- (6) Farm wineries, in which only wines ~~shall be~~ are manufactured and from which the

wine so manufactured may be served or sold or both served and sold in accordance with the provisions of this chapter; and

(7) Mini-distilleries, in which only alcoholic liquors are manufactured from which the alcoholic liquor manufactured may be sold in accordance with the provisions of this chapter.

Licenses for manufacture shall authorize the manufacture and sale of alcoholic liquors as provided by this chapter.

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

A person who is licensed to manufacture alcoholic liquors in this state may sell ~~such~~ liquors in this state only to the West Virginia Alcohol Beverage Control Commissioner, and to wholesalers and retailers licensed as provided in this chapter: *Provided*, That a holder of a farm winery license may sell wines and a holder of a mini-distillery license may sell alcoholic liquors manufactured by it in this state in accordance with the provisions of section two, article six of this chapter. Hours of retail sale by a farm winery or mini-distillery shall be is subject to regulation by the Commissioner. The Commissioner ~~shall~~ may not promulgate any rule ~~or regulation~~ which prohibits the holder of a farm winery license from the advertising of a particular brand or brands of wine produced by it, and the price thereof: *Provided, however*, That price ~~shall~~ may not be advertised in a medium of electronic communication subject to the jurisdiction of the Federal Communications Commission. A manufacturer may sell alcoholic liquors outside of the state.

**§60-4-15. Amount of license fees.**

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

- (1) Distilleries, one thousand five hundred dollars;
- (2) Wineries, one thousand five hundred dollars;
- (3) Breweries, two hundred fifty dollars;
- (4) Bottling plants, one hundred dollars;
- (5) Wholesale druggists, fifty dollars;
- (6) Institutions, ten dollars;
- (7) Industrial use, fifty dollars;
- (8) Industrial plants producing alcohol, two hundred fifty dollars;
- (9) Retail druggists, ten dollars;
- (10) Farm wineries, fifty dollars;
- (11) Mini-distilleries, fifty dollars.

**ARTICLE 6. MISCELLANEOUS PROVISIONS.**

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

The provisions of this chapter ~~shall~~ may not prevent:

- (1) A person from keeping and possessing alcoholic liquors in his or her residence for the personal use of himself or herself, his or her family, his or her servants or his or her guests if ~~such~~ the alcoholic liquors ~~shall~~ have been lawfully acquired by him or her;
- (2) A person, his or her family, or servants from giving or serving such alcoholic liquors to guests in ~~said~~ the residence, when ~~such~~ the gift or service is not for the purpose of evading the provisions of this chapter; ~~and~~
- (3) The holder of a farm winery license from serving complimentary samples of its wine in moderate quantities for tasting at the winery premises; and

(4) The holder of a mini-distillery license from serving complimentary samples of its alcoholic liquor in moderate quantities for tasting at the distillery.

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

The provisions of this chapter ~~shall~~ may not prevent:

- (1) A person from manufacturing wine at his or her residence for consumption at his or her residence as permitted by section one of this article;
- (2) A person from manufacturing and selling unfermented cider;
- (3) A person from manufacturing and selling cider made from apples produced by him or her within this state to persons holding distillery licenses, but the manufacture and sale ~~shall be~~ is under the supervision and regulation of the Commissioner;
- (4) A person from manufacturing and selling wine made from fruit produced by him or her within this state to persons holding winery licenses, but the manufacture and sale ~~shall be~~ is under the supervision and regulation of the Commissioner; ~~and~~
- (5) The holder of a farm winery license from selling wine produced by it directly to consumers at the winery and at one off-farm winery location or to any other person who is licensed under this chapter to sell wine either at wholesale or at retail: *Provided*, That the winery may ship wines from the farm winery without the bonding requirements of a transporter: *Provided, however*, That notwithstanding any other provisions of law to the contrary, an individual or licensee in a state which affords the wineries of this state equal reciprocal shipping privileges, may ship for personal use and not for resale, not more than two cases of wine per month to any adult resident in this state. For purposes of this subdivision, "wine" includes dessert wines manufactured exclusively by natural fermentation and port, sherry and Madeira wines having an alcoholic content of not more than twenty-two percent alcohol by volume and which have been matured in wooden barrels or casks; and

(6) The holder of a mini-distillery license from selling alcoholic liquor produced by it directly to consumers at the distillery.

**§60-6-26. Mini-distillery advertising.**

Mini-distilleries, as defined in section five-b, article one of this chapter, may advertise off premises as provided in section seven, article twenty-two, chapter seventeen of this code, and in any other media, including, but not limited to, newspaper, radio, television, magazines and direct mail solicitation.

NOTE: The purpose of this bill is create and license mini-distilleries; allow the tasting and retail sale of liquor produced by a mini-distillery at the licensed premise; and to allow mini-distillery advertising off the licensed premises.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§§60-1-5b and 60-6-26 are new; therefore, strike-throughs and underscoring have been omitted.