

# WVABCA ADVISORY FOR CLASS A LICENSEES ADDRESSING EXECUTIVE ORDER 2-20

In response to COVID-19 and in accordance with emergency powers granted to the Governor pursuant to W. Va. Code §15-5-6, and more specifically §15-5-6(c)(7) and as stated in Executive Order No. 2-20 ( <http://apps.sos.wv.gov/adlaw/executivejournal/readpdf.aspx?DocID=89494> ) issued on March 18, 2020, the West Virginia Alcohol Beverage Control Administration (WVABCA), at the direction of the Governor, has temporarily suspended a regulatory statute and rule that would hinder the ability of Private Clubs, Taverns, and WVABCA licensed Bars and Restaurants to provide off-premises (for take-away only) food, beer and wine service.

As of 12:00 a.m. on March 18, 2020, the Governor in the interest of public health, safety and welfare ordered all bars and restaurants to cease all on-premises consumption of food, drink or occupancy of their licensed premises, other than picking up food and drink for take-away orders only. (**Update** - See WVABCA Beer and Wine Home Delivery Advisory).

Licensees should not permit patrons to occupy the licensed premises. This means patrons should wait outside of the licensed premises for the take-away order. Ideally, purchases should be completed outside as well, however limited entry to the licensed premises for a patron to pay for food and drink, and then immediately leave the licensed premises is permissible. Please regularly sanitize any inside payment areas as well.

**Note**, any licensees that fail to comply with the Governor's Executive Order 2-20 during the State of Emergency could be subject to WVABCA penalties including monetary penalties, the immediate suspension of the licensee's license in the interest of public health and safety and revocation of the licensee's license. **Further note**, other penalties may apply under local and state law, which could also result in criminal penalties.

# WVABCA ADVISORY FOR CLASS A LICENSEES ADDRESSING EXECUTIVE ORDER 2-20

## **BEER**

All Class A **“beer”** licensees, including all licensed Taverns, all Private Clubs, including all Fraternal licensees, and Private Wine Restaurants, licensed for beer sales are authorized to sell nonintoxicating beer at retail for consumption **“off” the licensed premises** with take-away food orders only from Class A licensees who are closed for on-premises consumption of food, drink and occupancy during the State of Emergency.

The sale of beer for off-premises consumption shall be only in sealed original containers, such as bottles or cans, subject to age verification during the stated hours of operation, as required under current law, from Class A licensees who are closed for the on-premises consumption of food, drink and occupancy during the State of Emergency.

Sealed original container beer deliveries by the Licensee – See WVABCA Beer and Wine Home Delivery Advisory.

Beer Growler licensees may continue to sell sealed growlers for off-premises consumption.

# WVABCA ADVISORY FOR CLASS A LICENSEES ADDRESSING EXECUTIVE ORDER 2-20

## WINE

Per the State of Emergency and Executive Order 2-20, the WVABCA has temporarily suspended certain parts the West Virginia Code and rules with respect to permissible off-premises wine sales. Effective March 18, 2020, a temporary suspension of the rule shall remain in effect until terminated.

The sale of wine, which includes hard ciders, by Class A licensees (all Private Clubs, including Fraternal licensees, and Private Wine Restaurants who are licensed for wine sales) for off-premises consumption shall be permitted when sold in only sealed original containers, such as bottles, boxes or cans, with take-away food orders only subject to age verification during the stated hours of operation, as required under the law, from Class A licensees who are closed for the on-premises consumption of food, drink and occupancy during the State of Emergency.

Sealed original container wine deliveries by the Licensee – See WVABCA Beer and Wine Home Delivery Advisory.

“Dry Areas” take note, the off-premises sale of sealed wine bottles, boxes or cans does not apply to Private Wine Restaurants and Private Clubs that are located in any “dry” areas of the state.

Wine or hard cider growlers are not permitted under current law.

# WVABCA ADVISORY FOR CLASS A LICENSEES ADDRESSING EXECUTIVE ORDER 2-20

## LIQUOR

Liquor sales from Class A licensed Private Clubs for off-premises consumption are prohibited.

To be clear, no liquor drinks and no liquor bottles may be sold by Private Clubs (including Fraternal licensees and Bars) for off-premises or take-away orders. No home delivery either – See WVABCA Beer and Wine Home Delivery Advisory.