# 2023 West Virginia Legislature Updates Alcohol Laws

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Senate Bill 534 is the 2023 omnibus alcohol reform bill advanced by the West Virginia Alcohol Beverage Control Administration (WVABCA), which addresses important changes relating to the regulation of alcohol manufacturing and licensure requirements. Senate Bill 534 was signed by Governor Justice on March 29, 2023, and is effective June 9, 2023.

As of the effective date, Senate 534 implements the following changes:

### Multiple Manufacturing Locations for Brewers and Resident Brewers

- The licensure requirements for "brewers" and "resident brewers" are updated to allow for multiple manufacturing locations.
- The license for a "brewer" or a "resident brewer" having multiple manufacturing locations will be one unified license with multiple locations designated on the license.
- The number of available licensed manufacturing locations will depend upon the volume of beer produced annually by the "brewer" or "resident brewer."
    - "Resident brewers" and "brewers" manufacturing 12,500 barrels or less are allowed to have three places of manufacturing within the State of West Virginia.
    - "Resident brewers" and "brewers" manufacturing over 12,500 gallons and not more than 25,000 gallons are allowed to have five places of manufacturing within the State of West Virginia.
- Existing maximum production for "resident brewers" will remain 25,000 barrels of beer produced at all locations in the aggregate.
- Existing maximum self-distribution rights for "resident brewers" will remain 10,000 barrels of beer.


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- Out-of-state breweries may qualify without regard to their foreign license location, but the volume limits in West Virginia may take into account out-of-state production.

### Distillery Classifications Adjusted

- Distilleries, mini-distilleries, and micro-distilleries may now produce up to 50,000 gallons of spirits annually, and there is no lower limit for mini-distilleries and micro-distilleries.
- Owners of distilleries, mini-distilleries, and micro-distilleries may be licensed as another type of distillery or have multiple licenses distillery and may be licensed as winery, farm winery, brewery or as a resident brewer.

### Private Fairs and Festivals and Off-Premises Sales

- Adjustments were made to the special license for private fairs and festivals to allow for on-location sales of beer, wine, hard cider, and spirits and to also allow for off-premises sales by the licensee.
- This change also allows for manufacturers of alcoholic beverages to engage with the consumer and provides limited sampling and also to participate in off-premises sales, but alcohol manufacturers are still limited from actually serving attendees full pours for beer or other servings in excess of limited sampling rights.
- Manufacturers can now engage in off-premises sales of sealed containers subject to certain conditions.
- Fairs and festivals can now allow limited participation by alcohol manufacturers while maintaining the existing roles of distributors and retailers at private fairs and festivals.

### Outdoor Designated Area Drinking Allowed

- Senate Bill 534 allows municipalities to pass an ordinance to designate certain outdoor areas for consumption of alcoholic beverages during specific times and in a specific designed area subject to other certain conditions.


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- Upon the adoption of such an ordinance, permitted licensees authorized to sell alcohol for on-premises consumption can sell to customers of legal age and allow them to consume the alcohol in the "outdoor designated area" (the licensee must be within or adjacent to the area).
- The "outdoor designated area" will be a specific area laid out and approved on a map or survey, and it must also be in compliance with any other local and zoning requirements.

- This change is intended to supplement but not replace previous private club licenses allowing for approved "outdoor dining" areas and "outdoor street dining" areas which were previously approved during the COVID-19 pandemic. Such outdoor venues became immensely popular during this time, and the new "outdoor designated areas" which may be adopted local by municipalities allow for a larger and less limited space to be designated (effectively converting public space into a private area where drinking is legal).

### Contract Brewing

- Licensed brewers or resident brewers can contract for brewing services agreements with other brewers and resident brewers located in West Virginia by written agreement approved by WVABCA.
- The brewer of record is the licensed manufacturer and will be responsible for distribution from its licensed premises and subject to including the contract brewed beer in its volume cap and under its label.
- Contract brewing agreements will specify key terms such as who pays taxes.
- The contract brewer is simply providing a service.

### Miscellaneous (Food Trucks, Private Venues and Food Courts)


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- Under Senate Bill 534, food trucks are now an acceptable alternative to the restaurant requirements for private manufacturing clubs.
- Beer sold in growlers may now include ice.
- Distilleries are now allowed to provide three samples of liquor with the maximum amount of total samples being 1.5 ounces (not including mixers).
- New private coliseum or center clubs were added, which complements the previously adopted licenses for private clubs at college stadiums and now university stadiums.
- Private coliseums or centers clubs are allowed to conduct private fairs and festivals on the licensed premises (the alcohol sales are conducted separately through the festival licensee) perhaps increasing the availability of beer festivals and other similar events indoors during inclement weather or outdoors in large stadiums.
- A new private food court club allows permitted licensees to sell alcoholic beverages for consumption within the footprint of a licensed private food court.

For more information, please contact Charles M. Johnson of Frost Brown Todd's Consumables Goods team.

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