

1 **H. B. 2774**

2
3 (By Delegates Perdue, Hamilton and M. Poling)
4 [Introduced January 24, 2011; referred to the
5 Committee on Finance.]

6 **FISCAL**
7 **NOTE**

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9
10 A BILL to amend and reenact §11-16-13 of the Code of West Virginia,
11 1931, as amended, relating to increasing the barrel tax on
12 nonintoxicating beer.

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

14 That §11-16-13 of the Code of West Virginia, 1931, as
15 amended, be amended and reenacted to read as follows:

16 **ARTICLE 16. NONINTOXICATING BEER.**

17 **§11-16-13. Barrel tax on nonintoxicating beer.**

18 (a) There is hereby levied and imposed, in addition to the
19 license taxes provided for in this article, a tax of ~~five dollars~~
20 ~~and fifty cents~~ \$11 on each barrel of thirty-one gallons and in
21 like ratio on each part barrel of nonintoxicating beer manufactured
22 in this state for sale within this state, whether contained or sold
23 in barrels, bottles or other containers, and a like tax is hereby

1 levied and imposed upon all nonintoxicating beer manufactured
2 outside of this state and brought into this state for sale within
3 this state; but no nonintoxicating beer manufactured, sold or
4 distributed in this state is subject to more than one barrel tax.
5 The brewer manufacturing or producing nonintoxicating beer within
6 this state for sale within this state ~~shall pay~~ pays the barrel tax
7 on ~~such~~ nonintoxicating beer, and, except as provided otherwise,
8 the distributor who is the original consignee of nonintoxicating
9 beer manufactured or produced outside of this state, or who brings
10 ~~such~~ nonintoxicating beer into this state, ~~shall pay~~ pays the
11 barrel tax on ~~such~~ nonintoxicating beer manufactured or produced
12 outside of this state: *Provided*, That the barrel tax imposed by
13 this section ~~shall~~ does not apply to nonintoxicating beer
14 manufactured by a brewpub.

15 (b) On or before the tenth day of each month during the
16 license period, every brewer or operator of a brewpub who
17 manufactures or produces nonintoxicating beer within this state
18 shall file a report in writing, under oath, to the Tax
19 Commissioner, in the form prescribed by the Tax Commissioner,
20 stating its total sales, or in the case of a brewpub, its total
21 estimated production of nonintoxicating beer within this state
22 during that month, and at the same time ~~shall pay~~ pays the tax
23 levied by this article on such production. On or before the tenth
24 day of each month during the license period, every distributor who

1 is the original consignee of nonintoxicating beer manufactured or
2 produced outside this state or who brings such beer into this state
3 for sale shall file a report in writing, under oath, to the Tax
4 Commissioner, in the form prescribed by the Tax Commissioner,
5 stating its total estimated purchases of such nonintoxicating beer
6 during that month, and at the same time shall pay the tax thereon
7 levied by this article for such estimated monthly purchase:
8 *Provided*, That the Tax Commissioner may allow, or require, a brewer
9 who manufactures or produces nonintoxicating beer outside this
10 state to file the required report and pay the required tax on
11 behalf of its distributor or distributors. Any brewer or
12 distributor or operator of a brewpub who files a report under this
13 subsection may adjust its monthly estimated sales or purchases or
14 production report or reports by filing amended reports by the
15 twenty-fifth day of the reporting month.

16 (c) Every brewer or distributor or operator of a brewpub who
17 files a report under subsection (b) of this section shall file a
18 final monthly report of said sales or purchases or production, in
19 a form and at a time prescribed by the Tax Commissioner, stating
20 actual nonintoxicating beer sales, purchases, or production and
21 other information which the Tax Commissioner may require, and shall
22 include a remittance for any barrel tax owed for actual sales or
23 purchases or production made in excess of the amount estimated for
24 that month.

1 (d) Any brewer or distributor or operator of a brewpub who
2 files a report pursuant to subsection (b) of this section
3 reflecting an underestimation of twenty-five percent or more of
4 actual sales or purchases or production of nonintoxicating beer as
5 shown by the report filed pursuant to subsection (c) of this
6 section shall be assessed a penalty of one percent of the total
7 taxes due in such prior month.

8 (e) Brewers and distributors and operators of brewpubs shall
9 keep all records which relate to the sale or purchase in this state
10 of nonintoxicating beer for a period of three years unless written
11 approval for earlier disposal is granted by the Tax Commissioner.

12 (f) Brewpubs shall keep ~~such~~ records as required by the
13 federal government and may, in lieu of the recordkeeping and
14 reporting requirements contained in subsections (a) through (e) of
15 this section, file copies of the federal reports contemporaneously
16 with the Tax Commissioner at the time of such filings with the
17 federal government. The filing of duplicate copies of the federal
18 reports with the State Tax Commissioner ~~shall be deemed~~ is
19 considered as compliance with subsections (a) through (e) of this
20 section.

21 (g) Effective Date -- The changes set forth herein to this
22 section of this article become effective July 1, 2011.

NOTE: The purpose of this bill is to increase the barrel tax on nonintoxicating beer.

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