

**H. B. 2851**

(By Delegates Trecoast, Manchin, Storch, H. White, Romine,  
Lynch and Fluharty)

[Introduced February 20, 2015; referred to the  
Committee on Political Subdivisions then Finance.]

**FISCAL  
NOTE**

A BILL to repeal §7-18-5 of the Code of West Virginia, 1931, as amended; and to amend and  
reenact §7-18-1 and §7-18-3 of said code, all relating to eliminating exemption from hotel  
occupancy taxes on rental of hotel and motel rooms for thirty or more consecutive days;  
redefining certain terms; exempting hotel rooms occupied by federal or state officials on  
official business.

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

That §7-18-5 of the Code of West Virginia, 1931, as amended, be repealed; and that §7-18-1  
and §7-18-3 of said code be amended and reenacted, all to read as follows:

**ARTICLE 18. HOTEL OCCUPANCY TAX.**

**§7-18-1. Hotel occupancy tax.**

(a) *Authority to impose.* -- On and after July 1, 1985, any county or municipality may impose  
and collect a privilege tax upon the occupancy of hotel rooms located within its taxing jurisdiction.  
~~Such~~ The tax shall be imposed and collected as provided in this article.

(b) *Municipal tax.* -- A municipal hotel tax shall be imposed by ordinance enacted by the

1 governing body of the municipality, in accordance with the provisions of article eleven, chapter eight  
 2 of this code. ~~Such~~ The tax shall be imposed uniformly throughout the municipality; and the tax shall  
 3 apply to all hotels located within the corporate limits of the municipality, including hotels owned by  
 4 the state or by any political subdivision of this state.

5 (c) *County tax.* -- A county hotel tax shall be imposed by order of the county commission  
 6 duly entered of record. ~~Such~~ The tax shall be imposed uniformly throughout the county: *Provided,*  
 7 That no county commission may impose its tax on hotels located within the corporate limits of any  
 8 municipality situated, in whole or in part, within the county: *Provided, however,* That the tax  
 9 collected by a hotel owned by a municipality but located outside the corporate limits of ~~such~~ the  
 10 municipality pursuant to this article shall be remitted to the municipality owning such hotel for  
 11 expenditure pursuant to the provisions of section fourteen of this article. The tax shall apply to all  
 12 hotels located outside the corporate limits of a municipality, including hotels owned by the state or  
 13 any political subdivision of this state.

14 (d) The tax shall be imposed on the consumer and shall be collected by the hotel operator as  
 15 part of the consideration paid for the occupancy of a hotel room: *Provided,* That the tax ~~shall~~ may  
 16 not be imposed on ~~any consumer occupying a hotel room for thirty or more consecutive days~~ federal  
 17 or state officials occupying a hotel room for official federal or state business.

18 **§7-18-3. Definitions.**

19 For the purposes of this article:

20 (a) "Consideration paid" or "consideration" means the amount received in money, credits,  
 21 property or other consideration for or in exchange for the right to occupy a hotel room as herein  
 22 defined.

1 (b) "Consumer" means a person who pays the consideration for the use or occupancy of a  
2 hotel room. The term "consumer" ~~shall~~ does not be construed to mean the government of the United  
3 States of America, its agencies or instrumentalities, or the government of the State of West Virginia  
4 or political subdivisions thereof.

5 (c) "Hotel" means any facility, building or buildings, publicly or privately owned (including  
6 a facility located in a state, county or municipal park), in which the public may, for a consideration,  
7 obtain sleeping accommodations. The term ~~shall include~~ includes, but is not be limited to, boarding  
8 houses, hotels, motels, inns, courts, condominiums, lodges, cabins and tourist homes. The term  
9 "hotel" ~~shall include~~ includes state, county and city parks offering accommodations as herein set  
10 forth. The term "hotel" ~~shall not be construed to~~ does not mean any a hospital, sanitarium, extended  
11 care facility, nursing home or university or college housing unit, or any facility providing fewer than  
12 three in private homes, not exceeding a total of ten days in a calendar year, nor any tent, trailer or  
13 camper campsites: *Provided*, That where a university or college housing unit provides sleeping  
14 accommodations for the general nonstudent public for a consideration, the term "hotel" ~~shall~~ does,  
15 if otherwise applicable, apply to ~~such~~ those accommodations for the purposes of this tax.

16 (d) "Hotel operator" means the person who is proprietor of a hotel, whether in the capacity  
17 of owner, lessee, mortgagee in possession, licensee, trustee in possession, trustee in bankruptcy,  
18 receiver, executor or in any other capacity. Where the hotel operator performs his or her functions  
19 through a managing agent of any type or character other than an employee, the managing agent ~~shall~~  
20 ~~also be deemed~~ is a hotel operator for the purposes of this article and ~~shall have~~ has the same duties  
21 and liabilities as his or her principal. Compliance with the provisions of this article by either the  
22 principal or the managing agent ~~shall~~ is, however, ~~be~~ considered to be compliance by both.

1 (e) "Hotel room" means any room or suite of rooms or other facility affording sleeping  
2 accommodations to the general public and situated within a hotel. The term "hotel room" ~~shall not~~  
3 ~~be construed to mean~~ does not include:

4 (1) A banquet room, meeting room or any other room not primarily used for, or in  
5 conjunction with, sleeping accommodations; or

6 (2) Sleeping accommodations rented on a month-to-month basis or other rental arrangement  
7 for thirty days or longer at the inception at a boarding house, condominium, cabin, tourist home,  
8 apartment or home.

9 (f) "Person" means any individual, firm, partnership, joint venture, association, syndicate,  
10 social club, fraternal organization, joint stock company, receiver, corporation, guardian, trust,  
11 business trust, trustee, committee, estate, executor, administrator or any other group or combination  
12 acting as a unit.

13 (g) "State park" means any state-owned facility which is part of this state's park and  
14 recreation system established pursuant to this code. For purposes of this article, any recreational  
15 facility otherwise qualifying as a "hotel" and situated within a state park ~~shall be deemed is~~  
16 considered to be solely within the county in which the building or buildings comprising ~~said~~ the  
17 facility are physically situated, notwithstanding the fact that the state park within which ~~said~~ the  
18 facility is located may lie within the jurisdiction of more than one county.

19 (h) "Tax," "taxes" or "this tax" means the hotel occupancy tax authorized by this article.

20 (i) "Taxing authority" means a municipality or county levying or imposing the tax authorized  
21 by this article.

22 (j) "Taxpayer" means any person liable for the tax authorized by this article.

NOTE: The purpose of this bill is to allow county commissions and municipalities to impose their hotel occupancy taxes on hotel and motel rooms regardless of the length of time for which the hotel or motel room is rented. It also provides that the tax is not imposed on rooms rented to federal or state officials on official business.

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