

Senate Bill No. 522

(By Senators Laird, Miller and Kessler)

[Introduced February 19, 2015; referred to the Committee on Finance.]

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9 A BILL to amend and reenact §60-3A-17 of the Code of West Virginia, 1931, as amended, relating
10 generally to wholesale sales of liquor; and directing commissioner to increase wholesale
11 prices of liquor purchased from state to generate funds to promote travel and tourism in West
12 Virginia.

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

14 That §60-3A-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted
15 to read as follows:

16 **ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.**

17 **§60-3A-17. Wholesale prices set by commissioner; retail licensees to purchase liquor from**
18 **state; transportation and storage; method of payment.**

19 (a) The commissioner shall fix wholesale prices for the sale of liquor, other than wine, to
20 retail licensees. The commissioner shall sell liquor, other than wine, to retail licensees according
21 to a uniform pricing schedule. The commissioner shall obtain if possible, upon request, any liquor
22 requested by a retail licensee.

1 (b) Wholesale prices shall be established in order to yield a net profit for the General Fund
2 of not less than \$6,500,000 annually on an annual volume of business equal to the average for the
3 past three years. The net revenue derived from the sale of alcoholic liquors shall be deposited into
4 the General Revenue Fund in the manner provided in section seventeen, article three of this chapter:
5 Provided, That beginning June 1, 2015, the commissioner shall establish wholesale prices of
6 alcoholic liquors in order to yield an additional \$8 million of net profit on an annual volume of
7 business equal to the average for the past three years each fiscal year of the state beginning with the
8 fiscal year that begins July 1, 2015. The commissioner shall cause this \$8 million increase in net
9 profits to be deposited in the "Tourism Marketing Fund" hereby established in the State Treasury as
10 a revolving fund. Notwithstanding any provision of this code to the contrary, on and after July 1,
11 2015, all receipts accruing to and available for deposit in the General Revenue Fund and the Tourism
12 Marketing Fund pursuant to this subsection (b) of this section in excess of the requirements of the
13 operating fund and the license fee and additional sales tax imposed by the provisions of this chapter
14 shall be remitted by the commissioner to the State Treasury monthly within fifteen days next after
15 the end of each calendar month, to be deposited in the General Revenue Fund and the Tourism
16 Marketing Fund on a proportionate basis.

17 (1) Immediately upon receipt of funds for deposit into the Tourism Marketing Fund, the State
18 Treasurer shall deposit forty percent of the funds into subaccount "A" of the Tourism Marketing
19 Fund established by this subdivision, which is a nonexpiring account. The amount deposited in
20 subaccount "A" shall be used by the Tourism Commission solely to fund the "Tourism Advertising
21 Partnership Program", notwithstanding any provision of this code to the contrary.

22 (2) Immediately upon receipt of funds for deposit into the Tourism Marketing Fund, the State

1 Treasurer shall deposit sixty percent of the funds into subaccount "B" of the Tourism Marketing
2 Fund established by this subdivision, which is a nonexpiring account. The amount deposited in
3 subaccount "B" shall be used by the Commissioner of the Division of Tourism solely for tourist
4 promotion and direct advertising promoting West Virginia travel and tourism notwithstanding any
5 provision of this code to the contrary.

6 (c) The commissioner shall specify the maximum wholesale markup percentage which may
7 be applied to the prices paid by the commissioner for all liquor, other than wine, in order to
8 determine the prices at which all liquor, other than wine, will be sold to retail licensees. A retail
9 licensee shall purchase all liquor, other than wine, for resale in this state only from the
10 commissioner, and the provisions of sections twelve and thirteen, article six of this chapter shall not
11 apply to the transportation of the liquor: *Provided*, That a retail licensee shall purchase wine from
12 a wine distributor who is duly licensed under article eight of this chapter. All liquor, other than
13 wine, purchased by retail licensees shall be stored in the state at the retail outlet or outlets operated
14 by the retail licensee: *Provided, however*, That the commissioner, in his or her discretion, may upon
15 written request permit a retail licensee to store liquor at a site other than the retail outlet or outlets.

16 (d) The sale of liquor by the commissioner to retail licensees shall be paid by electronic funds
17 transfer which shall be initiated by the commissioner on the business day following the retail
18 licensees order or by money order, certified check or cashier's check which shall be received by the
19 commissioner at least twenty-four hours prior to the shipping of the alcoholic liquors: *Provided*,
20 That if a retail licensee posts with the commissioner an irrevocable letter of credit or bond with
21 surety acceptable to the commissioner from a financial institution acceptable to the commissioner
22 guaranteeing payment of checks, then the commissioner may accept the retail licensee's checks in

1 an amount up to the amount of the letter of credit.

2 (e) (1) A retail licensee may not sell liquor to persons licensed under the provisions of article
3 seven of this chapter at less than one hundred ten percent of the retail licensee's cost as defined in
4 section six, article eleven-a, chapter forty-seven of this code.

5 (2) A retail licensee may not sell liquor to the general public at less than one hundred ten
6 percent of the retail licensee's cost as defined in section six, article eleven-a, chapter forty-seven of
7 this code.

NOTE: The purpose of this bill is to provide a source of revenue to be used to promote travel and tourism in West Virginia out of increased liquor profits beginning with the fiscal year that begins July 1, 2015. The additional liquor profits will be deposited in a new fund established in the State Treasury to be known as the "Tourism Marketing Fund." Of the amount deposited each fiscal year in this new fund, 40% will be used to fund the "Tourism Advertising Partnership Program" and 60% will be used solely for tourism promotion and direct advertising promoting West Virginia travel and tourism.

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