

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

**Introduced**

### **Senate Bill 674**

**FISCAL  
NOTE**

BY SENATOR KESSLER

[Introduced February 22, 2016;

Referred to the Committee on Finance.]

1 A BILL to amend and reenact §11-16-13 of the Code of West Virginia, 1931, as amended; to  
 2 amend and reenact §60-3A-21 of said code; and to amend and reenact §60-8-4 of said  
 3 code, all relating to taxes on alcohol; providing an increase to the barrel tax on  
 4 nonintoxicating beer; providing an increase on the tax on purchases of liquor; and  
 5 providing an increase to the wine liter tax.

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

1 That §11-16-13 of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted; that §60-3A-21 of said code be amended and reenacted; and that §60-8-4 of said code  
 3 be amended and reenacted, all to read as follows:

**CHAPTER 11. TAXATION.**

**ARTICLE 16. NONINTOXICATING BEER.**

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

1 (a) There is hereby levied and imposed, in addition to the license taxes provided for in this  
 2 article, a tax of ~~\$5.50~~ \$11 on each barrel of thirty-one gallons and in like ratio on each part barrel  
 3 of nonintoxicating beer manufactured in this state for sale within this state, whether contained or  
 4 sold in barrels, bottles or other containers, and a like tax is hereby levied and imposed upon all  
 5 nonintoxicating beer manufactured outside of this state and brought into this state for sale within  
 6 this state; but no nonintoxicating beer manufactured, sold or distributed in this state is subject to  
 7 more than one barrel tax. The brewer manufacturing or producing nonintoxicating beer within this  
 8 state for sale within this state shall pay the barrel tax on such nonintoxicating beer, and, except  
 9 as provided otherwise, the distributor who is the original consignee of nonintoxicating beer  
 10 manufactured or produced outside of this state, or who brings such nonintoxicating beer into this  
 11 state, shall pay the barrel tax on such nonintoxicating beer manufactured or produced outside of  
 12 this state: *Provided*, That the barrel tax imposed by this section shall not apply to nonintoxicating  
 13 beer manufactured by a brewpub.

14           (b) On or before the tenth day of each month during the license period, every brewer or  
15 operator of a brewpub who manufactures or produces nonintoxicating beer within this state shall  
16 file a report in writing, under oath, to the Tax Commissioner, in the form prescribed by the Tax  
17 Commissioner, stating its total sales, or in the case of a brewpub, its total estimated production  
18 of nonintoxicating beer within this state during that month, and at the same time shall pay the tax  
19 levied by this article on such production. On or before the tenth day of each month during the  
20 license period, every distributor who is the original consignee of nonintoxicating beer  
21 manufactured or produced outside this state or who brings such beer into this state for sale shall  
22 file a report in writing, under oath, to the Tax Commissioner, in the form prescribed by the Tax  
23 Commissioner, stating its total estimated purchases of such nonintoxicating beer during that  
24 month, and at the same time shall pay the tax thereon levied by this article for such estimated  
25 monthly purchase: *Provided*, That the Tax Commissioner may allow, or require, a brewer who  
26 manufactures or produces nonintoxicating beer outside this state to file the required report and  
27 pay the required tax on behalf of its distributor or distributors. Any brewer or distributor or operator  
28 of a brewpub who files a report under this subsection may adjust its monthly estimated sales or  
29 purchases or production report or reports by filing amended reports by the twenty-fifth day of the  
30 reporting month.

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

37           (d) Any brewer or distributor or operator of a brewpub who files a report pursuant to  
38 subsection (b) of this section reflecting an underestimation of twenty-five percent or more of actual  
39 sales or purchases or production of nonintoxicating beer as shown by the report filed pursuant to

40 subsection (c) of this section shall be assessed a penalty of one percent of the total taxes due in  
41 such prior month.

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

45 (f) Brewpubs shall keep such records as required by the federal government and may, in  
46 lieu of the recordkeeping and reporting requirements contained in subsections (a) through (e) of  
47 this section, file copies of the federal reports contemporaneously with the Tax Commissioner at  
48 the time of such filings with the federal government. The filing of duplicate copies of the federal  
49 reports with the State Tax Commissioner shall be deemed as compliance with subsections (a)  
50 through (e) of this section.

## **CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.**

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

#### **§60-3A-21. Tax on purchases of liquor.**

1 (a) For the purpose of providing financial assistance to and for the use and benefit of the  
2 various counties and municipalities of this state, there is hereby levied tax upon all purchases of  
3 liquor from retail licensees. The tax shall be ~~five~~ six percent of the purchase price and shall be  
4 added to and collected with the purchase price by the retail licensee.

5 (b) All such tax collected within the corporate limits of a municipality in this state shall be  
6 remitted to such municipality; all such tax collected outside of but within one mile of the corporate  
7 limits of any municipality shall be remitted to such municipality; and all other tax so collected shall  
8 be remitted to the county wherein collected: *Provided*, That where the corporate limits of more  
9 than one municipality be within one mile of the place of collection of such tax, all such tax collected  
10 shall be divided equally among each of such municipalities: *Provided, however*, That such mile is  
11 measured by the most direct hard surface road or access way usually and customarily used as

12 ingress and egress to the place of tax collection.

13 (c) The Tax Commissioner, by appropriate rule promulgated pursuant to chapter twenty-  
 14 nine-a of this code, shall provide for the collection of such tax upon all purchases from retail  
 15 licensees, separation or proration of the same and distribution thereof to the respective counties  
 16 and municipalities for which the same shall be collected. Such rule shall provide that all such  
 17 taxes shall be deposited with the State Treasurer and distributed quarterly by the State Treasurer  
 18 upon warrants of the Auditor payable to the counties and municipalities.

## **ARTICLE 8. SALE OF WINES.**

### **§60-8-4. Liter tax.**

1 There is hereby levied and imposed on all wine sold after July 1, 2007, by suppliers to  
 2 distributors, and including all wine sold and sent to West Virginia adult residents from direct  
 3 shippers, except wine sold to the commissioner, a tax of ~~twenty-six and four hundred six-~~  
 4 ~~thousandths cents~~ 27.406¢ per liter.

5 Before the sixteenth day of each month thereafter, every supplier, distributor and direct  
 6 shipper shall make a written report under oath to the Tax Commissioner and the commissioner  
 7 showing the identity of the purchaser, the quantity, label and alcoholic content of wine sold by the  
 8 supplier to West Virginia distributors or the direct shipper to West Virginia adult residents during  
 9 the preceding month and at the same time shall pay the tax imposed by this article on the wine  
 10 sold to the distributor or the West Virginia adult residents during the preceding month to the Tax  
 11 Commissioner.

12 The reports shall contain other information and be in the form the Tax Commissioner may  
 13 require. For purposes of this article, the reports required by this section shall be considered tax  
 14 returns covered by the provisions of article ten, chapter eleven of this code. Failure to timely file  
 15 the tax returns within five calendar days of the sixteenth day of each month will also subject a  
 16 supplier, distributor and direct shipper to penalties under section eighteen of this article.

17 No wine imported, sold or distributed in this state or sold and shipped to this state by a

18 direct shipper shall be subject to more than one liter tax.

NOTE: The purpose of this bill is to increase the barrel tax on nonintoxicating beer, wine liter tax, and tax on purchases of liquor.

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