

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 4210**

BY DELEGATES R. PHILLIPS, J. NELSON, BATES, R.  
SMITH, PERRY, MOYE, P. WHITE, BUTLER, HICKS AND  
MCCUSKEY

[Introduced January 21, 2016; Referred  
to the Committee on Energy then Finance]

1 A BILL to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended, relating  
 2 to coal severance tax; and reduction of the severance rate for coal mined by underground  
 3 methods based on length of belt line or distance travelled in the mine; and providing a  
 4 three year sunset provision.

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

1 That §11-13A-3 of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted to read as follows:

**ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.**

**§11-13A-3. Imposition of tax or privilege of severing coal, limestone or sandstone, or  
 furnishing certain health care services, effective dates therefor; reduction of  
 severance rate for coal mined by underground methods based on seam thickness;  
reduction of severance rate for coal mined by underground methods based on  
 length of belt line or distance travelled in mine; sunset provision.**

1 (a) *Imposition of tax.* -- Upon every person exercising the privilege of engaging or  
 2 continuing within this state in the business of severing, extracting, reducing to possession and  
 3 producing for sale, profit or commercial use coal, limestone or sandstone, or in the business of  
 4 furnishing certain health care services, there is hereby levied and shall be collected from every  
 5 person exercising such privilege an annual privilege tax.

6 (b) *Rate and measure of tax.* -- The tax imposed in subsection (a) of this section shall be  
 7 five percent of the gross value of the natural resource produced or the health care service  
 8 provided, as shown by the gross income derived from the sale or furnishing thereof by the  
 9 producer or the provider of the health care service, except as otherwise provided in this article. In  
 10 the case of coal, this five percent rate of tax includes the thirty-five one hundredths of one percent  
 11 additional severance tax on coal imposed by the state for the benefit of counties and municipalities  
 12 as provided in section six of this article.

13 (c) *"Certain health care services" defined.* -- For purposes of this section, the term "certain

14 health care services" means, and is limited to, behavioral health services.

15 (d) *Tax in addition to other taxes.* -- The tax imposed by this section shall apply to all  
16 persons severing or processing (or both severing and processing) in this state natural resources  
17 enumerated in subsection (a) of this section and to all persons providing certain health care  
18 services in this state as enumerated in subsection (c) of this section and shall be in addition to all  
19 other taxes imposed by law.

20 (e) *Effective date.* -- This section, as amended in the year 1993, shall apply to gross  
21 proceeds derived after May 31 of such year. The language of this section, as in effect on January  
22 1, of such year, shall apply to gross proceeds derived prior to June 1 of such year and, with  
23 respect to such gross proceeds, shall be fully and completely preserved.

24 (f) *Reduction of severance tax rate.* -- For tax years beginning after the effective date of  
25 this subsection, any person exercising the privilege of engaging within this state in the business  
26 of severing coal for the purposes provided in subsection (a) of this section shall be allowed a  
27 reduced rate of tax on coal mined by underground methods in accordance with the following:

28 (i) For coal mined by underground methods from seams with an average thickness of  
29 thirty-seven inches to forty-five inches, the tax imposed in subsection (a) of this section shall be  
30 two percent of the gross value of the coal produced. For coal mined by underground methods  
31 from seams with an average thickness of less than thirty-seven inches, the tax imposed in  
32 subsection (a) of this section shall be one percent of the gross value of the coal produced. Gross  
33 value is determined from the sale of the mined coal by the producer. This rate of tax includes the  
34 thirty-five one hundredths of one percent additional severance tax imposed by the state for the  
35 benefit of counties and municipalities as provided in section six of this article.

36 (ii) This reduced rate of tax applies to any new underground mine producing coal after the  
37 effective date of this subsection, from seams of less than forty-five inches in average thickness  
38 or any existing mine that has not produced coal from seams forty-five inches or less in thickness  
39 in the one hundred eighty days immediately preceding the effective date of this subsection.

40 (iii) The seam thickness shall be based on the weighted average isopach mapping of  
41 actual coal thickness by mine as certified by a professional engineer.

42 (g) Reduction of severance tax rate for small mining operations. - - For tax years beginning  
43 after the effective date of this subsection, any person exercising the privilege of engaging within  
44 this state in the business of severing coal for the purposes provided in subsection (a) of this  
45 section shall be allowed a reduced rate of tax on coal mined by underground methods in  
46 accordance with the following: For coal mined by underground methods with coal mining  
47 operations that have belt lines or travel distances of three miles or 15,840 feet within the mine,  
48 the tax imposed in subsection (a) of this section shall be two percent of the gross value of the  
49 coal produced. For the purposes of this subsection, these mining operations are determined to  
50 be small mining operations.

51 (h) The reduction of severance tax rate for small mining operations expires three years  
52 from the date of enactment of the amendment unless extended or otherwise modified by the  
53 Legislature.

NOTE: The purpose of this bill is to reduce the severance rate for coal mined by underground methods based on the length of belt line or distance travelled in the mine. The bill also provides that underground methods with coal mining operations that have belt lines or travel distances of three miles or 15,840 feet within the mine are small mining operations. The bill is subject to a three year sunset provision.

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