

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4232

BY DELEGATE TRECOST

[Introduced on January 22, 2016;

Referred to the Committee Roads and Transportation

then Finance.]

1 A BILL to amend and reenact §11-15-3 of the Code of West Virginia, 1931, as amended; and to
 2 amend said code by adding thereto a new section, designated §17-3-11, all relating to
 3 raising the consumer sales and service tax from 6¢ to 7¢ on the dollar for five years and
 4 dedicating the 1¢ increase to a newly created Priority Repairs Fund dedicated to funding
 5 repairs of existing roads throughout the state.

Be it enacted by the Legislature of West Virginia:

1 That §11-15-3 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted; and that said code be amended by adding thereto a new section, designated §17-3-
 3 11, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-3. Amount of tax; allocation of tax and transfers.

1 (a) *Vendor to collect.* — For the privilege of selling tangible personal property or custom
 2 software and for the privilege of furnishing certain selected services defined in sections two and
 3 eight of this article, the vendor shall collect from the purchaser the tax as provided under this
 4 article and article fifteen-b of this chapter, and shall pay the amount of tax to the Tax
 5 Commissioner in accordance with the provisions of this article or article fifteen-b of this chapter.

6 (b) *Amount of tax.* — The general consumer sales and service tax imposed by this article
 7 shall be at the rate of 6¢ on the dollar of sales or services, excluding gasoline and special fuel
 8 sales, which remain taxable at the rate of 5¢ on the dollar of sales. On July 1, 2016, the tax
 9 imposed by this article shall be 7¢ on the dollar of sales and services, excluding gasoline and
 10 special fuel sales, which remain taxable at the rate of 5¢ on the dollar of sales. The new revenue
 11 generated by the 1¢ increase shall be distributed pursuant to subsection (i) of this section. The
 12 tax increase shall be in effect until June 30, 2021, when the tax shall revert back to 6¢ on the
 13 dollar of sales or services.

14 (c) *Calculation tax on fractional parts of a dollar until January 1, 2004.* -- There shall be
15 no tax on sales where the monetary consideration is 5¢ or less. The amount of the tax shall be
16 computed as follows:

17 (1) On each sale, where the monetary consideration is from 6¢ to 16¢, both inclusive, 1¢.

18 (2) On each sale, where the monetary consideration is from 17¢ to 33¢, both inclusive, 2¢.

19 (3) On each sale, where the monetary consideration is from 34¢ to 50¢, both inclusive, 3¢.

20 (4) On each sale, where the monetary consideration is from 51¢ to 67¢, both inclusive, 4¢.

21 (5) On each sale, where the monetary consideration is from 68¢ to 84¢, both inclusive, 5¢.

22 (6) On each sale, where the monetary consideration is from 85¢ to \$1, both inclusive, 6¢.

23 (7) If the sale price is in excess of \$1, 6¢ on each whole dollar of sale price, and upon any

24 fractional part of a dollar in excess of whole dollars as follows: 1¢ on the fractional part of the

25 dollar if less than 17¢; 2¢ on the fractional part of the dollar if in excess of 16¢ but less than 34¢;

26 3¢ on the fractional part of the dollar if in excess of 33¢ but less than 51¢; 4¢ on the fractional

27 part of the dollar if in excess of 50¢ but less than 68¢; 5¢ on the fractional part of the dollar if in

28 excess of 67¢ but less than 85¢; and 6¢ on the fractional part of the dollar if in excess of 84¢. For

29 example, the tax on sales from \$1.01 to \$1.16, both inclusive, 7¢; on sales from \$1.17 to \$1.33,

30 both inclusive, 8¢; on sales from \$1.34 to \$1.50, both inclusive, 9¢; on sales from \$1.51 to \$1.67,

31 both inclusive, 10¢; on sales from \$1.68 to \$1.84, both inclusive, 11¢ and on sales from \$1.85 to

32 \$2, both inclusive, 12¢: *Provided*, That beginning January 1, 2004, tax due under this article shall

33 be calculated as provided in subsection (d) of this subsection and this subsection (c) does not

34 apply to sales made after December 31, 2003.

35 (d) *Calculation of tax on fractional parts of a dollar after December 31, 2003.* -- Beginning

36 January 1, 2004, the tax computation under subsection (b) of this section shall be carried to the

37 third decimal place, and the tax rounded up to the next whole cent whenever the third decimal

38 place is greater than four and rounded down to the lower whole cent whenever the third decimal
39 place is four or less. The vendor may elect to compute the tax due on a transaction on a per item
40 basis or on an invoice basis provided the method used is consistently used during the reporting
41 period.

42 (e) *No aggregation of separate sales transactions, exception for coin-operated devices.* -
43 – Separate sales, such as daily or weekly deliveries, shall not be aggregated for the purpose of
44 computation of the tax even though the sales are aggregated in the billing or payment therefor.
45 Notwithstanding any other provision of this article, coin-operated amusement and vending
46 machine sales shall be aggregated for the purpose of computation of this tax.

47 (f) *Rate of tax on certain mobile homes.* -- Notwithstanding any provision of this article to
48 the contrary, after December 31, 2003, the tax levied on sales of mobile homes to be used by the
49 owner thereof as his or her principal year-round residence and dwelling shall be an amount equal
50 to six percent of fifty percent of the sales price.

51 (g) *Construction; custom software.* -- After December 31, 2003, whenever the words
52 “tangible personal property” or “property” appear in this article, the same shall also include the
53 words “custom software”.

54 (h) *Computation of tax on sales of gasoline and special fuel.* -- The method of computation
55 of tax provided in this section does not apply to sales of gasoline and special fuel.

56 (i) Revenues generated by the increases in the consumer use and sales tax contained in
57 subsection (b) of this section and made during the 2016 Legislative Session shall be distributed
58 to the Priority Repairs Fund created in section eleven, article three, chapter seventeen of this
59 code.

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 3. STATE ROAD FUND.

§17-3-11. Priority Repairs Fund.

1 (a) There is created in the State Treasury the Priority Repairs Fund. Beginning on July 1,
2 2016, there shall be deposited into the Priority Repairs Fund 1¢ per dollar of the general consumer
3 sales and service tax collected pursuant to section three, article fifteen, chapter eleven of this
4 code.

5 (b) The moneys in the Priority Repairs Fund shall be expended by the Division of Highways
6 for repairs of existing expressways, trunklines and feeder roads.

NOTE: The purpose of this bill is to raise the consumer use and sales tax by 1 cent per dollar, and dedicating those funds to the Priority Repairs Fund.

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