

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 4504**

BY DELEGATES PERDUE, HORNBUCKLE, HAMILTON,  
HICKS, ROHRBACH, MORGAN, GUTHRIE, FLEISCHAUER  
AND SKINNER

[Introduced February 11, 2016; Referred  
to the Committee on Finance.]

1 A BILL to amend and reenact §11-19-2 of the Code of West Virginia, 1931, as amended, relating  
2 to increasing the excise tax on bottled soft drinks, syrups and dry mixtures; and dedicate  
3 the proceeds to the benefit of the state university system.

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

1 That §11-19-2 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted to read as follows:

### **ARTICLE 19. SOFT DRINKS TAX.**

#### **§11-19-2. Excise tax on bottled soft drinks, syrups and dry mixtures; disposition thereof.**

1 (a) For the purpose of providing revenue for the construction, maintenance and operation  
2 of a four-year school of medicine, dentistry and nursing of West Virginia University, an excise tax  
3 is hereby levied and imposed on and after midnight of June 30, 1951, upon the sale, use, handling  
4 or distribution of all bottled soft drinks and all soft drink syrups, whether manufactured within or  
5 without this state, as follows:

6 (1) On each bottled soft drink, a tax of one cent on each sixteen and nine-tenths fluid  
7 ounces, or fraction thereof, or on each one-half liter, or fraction thereof contained therein.

8 (2) On each gallon of soft drink syrup, a tax of eighty cents, and in like ratio on each part  
9 gallon thereof, or on each four liters of soft drink syrup a tax of eighty-four cents, and in like ratio  
10 on each part four liters thereof.

11 (3) On each ounce by weight of dry mixture or fraction thereof used for making soft drinks,  
12 a tax of one cent or on each 28.35 grams, or fraction thereof, a tax of one cent.

13 (b) (1) An additional excise tax is hereby levied and imposed effective July 1, 2016, upon  
14 the sale, use, handling or distribution of all bottled soft drinks and all soft drink syrups, whether  
15 manufactured within or without this state. Seventy-five percent of the total amount collected  
16 pursuant to this subsection shall be used for maintenance and operation of the State colleges and  
17 universities of higher education and deposited in a special account in the State Treasury to be  
18 known as the "Give a Pop to Higher Education Fund." Expenditures from the fund shall be for

19 funding the maintenance and operation of the colleges and universities in the state higher  
20 education system and are not authorized from collections but are to be made only in accordance  
21 with appropriation by the Legislature and in accordance with the provisions of article three,  
22 chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b  
23 of this code: *Provided*, That for the fiscal year ending June 30, 2016, expenditures are authorized  
24 from collections rather than pursuant to appropriation by the Legislature.

25 (2) One fourth of the amount collected pursuant to this subsection shall be directed to  
26 funding county health departments pursuant to section fourteen, article two, chapter sixteen of  
27 this code.

28 (3) The amount collected for these two purposes shall be assessed as follows:

29 (A) On each bottled soft drink, a tax of one cent on each sixteen and nine-tenths fluid  
30 ounces, or fraction thereof, or on each one-half liter, or fraction thereof contained therein.

31 (B) On each gallon of soft drink syrup, a tax of eighty cents, and in like ratio on each part  
32 four liters thereof.

33 (C) On each ounce by weight of dry mixture or fraction thereof used for making soft drinks,  
34 a tax of one cent on each 28.35 grams, or fraction thereof.

35 (c) Any person manufacturing or producing within this state any bottled soft drink or soft  
36 drink syrup for sale within this state and any distributor, wholesale dealer or retail dealer or any  
37 other person who is the original consignee of any bottled soft drink or soft drink syrup  
38 manufactured or produced outside this state, or who brings such drinks or syrups into this state,  
39 shall be liable for the excise tax hereby imposed. The excise tax hereby imposed shall not be  
40 collected more than once in respect to any bottled soft drink or soft drink syrup manufactured,  
41 sold, used or distributed in this state.

42 (d) One half of all revenue collected by the commissioner under the provisions of this  
43 article, less such costs of administration as are hereinafter provided for, shall be paid by him or  
44 her into a special medical school fund, which is hereby created in the State Treasury, to be used

45 solely for the construction, maintenance and operation of a four-year school of medicine, dentistry  
46 and nursing, as otherwise provided by law. The remaining one half of revenue collected shall be  
47 deposited into a special revenue account in the State Treasury to be known as the "Higher  
48 Education Facility Construction Maintenance and Operation Fund." Expenditures from the fund  
49 shall be for the purposes set forth herein and are not authorized from collections but are to be  
50 made only in accordance with appropriation by the Legislature and in accordance with the  
51 provisions of article three, chapter twelve of this code.

NOTE: The purpose of this bill is to increase the excise tax on bottled soft drinks, syrups and dry mixtures and dedicate the proceeds to the benefit of the state university system.

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