

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 579

**FISCAL
NOTE**

BY SENATORS SYPOLT AND CLINE

[Introduced March 11, 2017; Referred

to the Committee on Agriculture and Rural

Development; and then to the Committee on Finance]

1 A BILL to amend and reenact §8-13-7 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §60-3-9d of said code, all relating to exempting a farm winery from
3 certain taxes on the selling or distribution of wine when that wine is made on the farm
4 winery and is sold at retail to the public on the premises of the farm winery.

Be it enacted by the Legislature of West Virginia:

1 That §8-13-7 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted; and that §60-3-9d of said code be amended and reenacted, all to read as follows:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 13. TAXATION AND FINANCE.

§8-13-7. Tax on purchases of intoxicating liquors in municipalities; private club fees.

1 (a) (1) Every municipality shall have plenary power and authority to may levy and collect
2 a tax upon all purchases within ~~such~~ the municipality:

3 (A) Of intoxicating liquors from the Alcohol Beverage Control Commissioner;

4 (B) From any person licensed to sell wine at retail to the public under the provisions of
5 article eight, chapter sixty of this code; or

6 (C) From distributors licensed to sell or distribute wine pursuant to said article eight;
7 ~~Provided, That no municipality shall have authority to levy or collect any such tax on the~~
8 ~~intoxicating liquors sold by or purchased from holders of a license issued under the provisions of~~
9 ~~article seven, chapter sixty of this code and~~

10 (2) The tax shall be levied upon the purchaser and shall be added to and collected with
11 the price of purchase. The tax shall may not exceed five percent of the purchase price.

12 (3) Notwithstanding subdivision (1) of this subsection:

13 (A) A municipality may not levy or collect the tax on intoxicating liquors sold by or
14 purchased from holders of a license issued under the provisions of article seven, chapter sixty of
15 this code; and

16 (B) A farm winery that sells or distributes wine made on the farm winery for sale at retail
17 to the public on the premises of the farm winery may only be required to collect the tax on the
18 wine that is sold at retail to the public on the premises of the farm winery, and any other sales or
19 distributions are subject to taxation as provided in subdivision (1) of this subsection.

20 (b) A copy of any ordinance imposing the tax authorized by this section shall be certified
21 by the mayor of the municipality to the West Virginia Alcohol Beverage Control Commissioner
22 and to the Tax Commissioner. The West Virginia Alcohol Beverage Control Commissioner by
23 appropriate rules and regulations shall provide for the collection of ~~such~~ the tax upon all purchases
24 within ~~such~~ the municipality of intoxicating liquors from the Alcohol Beverage Control
25 Commissioner, from any person licensed to sell wine at retail pursuant to the provisions of article
26 eight, chapter sixty of this code, ~~or~~ from distributors licensed to sell or distribute wine pursuant to
27 said article eight, and for distribution thereof to the respective municipalities for which the same
28 shall be collected. ~~Such~~ The rules and regulations shall provide that all ~~such~~ the taxes shall be
29 deposited with the State Treasurer and distributed quarterly by the Treasurer upon warrants of
30 the Auditor payable to the municipality.

31 (c) Every municipality ~~shall have plenary power and authority to~~ may levy and collect a fee
32 from any private club licensee whose premises are situate therein as authorized in section seven,
33 article seven, chapter sixty of this code.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 3. SALES BY COMMISSIONER.

§60-3-9d. Tax on purchases of intoxicating liquors outside corporate limits of municipalities.

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 a tax upon all purchases
3 outside the corporate limits of any municipality:

4 (1) Of intoxicating liquor from state stores or other agencies of the Alcohol Beverage
5 Control Commissioner;

6 (2) Of wine from any person licensed to sell wine at retail under the provisions of article
7 eight, chapter sixty of this code; and

8 (3) Of wine from distributors licensed to sell or distribute wine under the provisions of said
9 article eight.

10 (b) Notwithstanding subsection (a) of this section, farm winery that sells or distributes wine
11 made on the farm winery for sale at retail to the public on the premises of the farm winery may
12 only be required to collect the tax on the wine that is sold at retail to the public on the premises of
13 the farm winery, and any other sales or distributions are subject to taxation as provided in
14 subsection (a) of this subsection.

15 (c) The tax ~~shall be~~ is five percent of the purchase price and shall be added to and
16 collected with the purchase price by the commissioner, by the person licensed to sell wine at
17 retail, ~~or~~ by the distributor licensed to sell or distribute wine, as the case may be; *Provided*, That
18 ~~no such tax shall~~ the tax may not be collected on the intoxicating liquors sold by or purchased
19 from holders of a license issued under the provisions of article seven of this chapter.

20 ~~All such~~ (d) The tax collected within one mile of the corporate limits of any municipality
21 within the state shall be remitted to ~~such~~ the municipality; all other tax so collected shall be
22 remitted to the county wherein collected: *Provided*, That where the corporate limits of more than
23 one municipality ~~be~~ is within one mile of the place of collection of ~~such~~ the tax, ~~all such~~ the tax
24 collected shall be divided equally among each of ~~said~~ the municipalities: *Provided, however*, That
25 ~~such~~ the mile is measured by the most direct hard surface road or access way usually and
26 customarily used as ingress and egress to the place of tax collection.

27 (e) The West Virginia Alcohol Beverage Control Commissioner by appropriate rules ~~and~~
28 ~~regulations~~ shall provide for the collection of ~~such~~ the tax upon all purchases outside the corporate
29 limits of any municipality of intoxicating liquor from state stores or other agencies of the Alcohol

30 Beverage Control Commissioner, separation or proration of the ~~same~~ tax and distribution thereof
31 to the respective counties and municipalities for which the ~~same shall be~~ tax is collected. The Tax
32 Commissioner by appropriate rules ~~and regulations~~ shall provide for the collection of ~~such~~ the tax
33 upon all purchases outside the corporate limits of any municipality of wine from any person
34 licensed to sell wine at retail under the provisions of article eight, chapter sixty of this code, ~~or~~
35 from distributors licensed to sell or distribute wine under the provisions of said article eight, and
36 shall also provide for separation or proration of the ~~same~~ tax and distribution thereof to the
37 respective counties and municipalities for which the ~~same shall be~~ tax is collected. ~~Such~~ The rules
38 ~~and regulations~~ shall provide that ~~all such~~ the taxes shall be deposited with the State Treasurer
39 and distributed quarterly by the Treasurer upon warrants of the Auditor payable to the counties
40 and municipalities.

NOTE: The purpose of this bill is to exempt a farm winery from certain taxes on the selling or distribution of wine, when that wine is made on the farm winery and is sold at retail to the public on the premises of the farm winery.

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