

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

**Introduced**

### **House Bill 2985**

**FISCAL  
NOTE**

BY DELEGATE WARD

[Introduced March 14, 2017; Referred  
to the Committee on Political Subdivisions then 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 taxes on beer and nonintoxicating  
 3 beer; giving authority to municipalities to impose taxes on beer and nonintoxicating beer;  
 4 and imposing tax on purchases of beer and nonintoxicating beer outside corporate limits  
 5 of municipalities for benefit of counties and municipalities.

*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 and beer 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.~~

10 (D) From any person licensed to sell nonintoxicating beer at retail to the public under the  
 11 provisions of article sixteen, chapter eleven of this code; or

12 (E) From distributors licensed to sell or distribute nonintoxicating beer under the provisions  
 13 of article sixteen, chapter eleven of this code.

14 (2) The tax shall be levied upon the purchaser and shall be added to and collected with

15 the price of purchase. The tax ~~shall~~ may not exceed five percent of the purchase price.

16 (3) Notwithstanding subdivision (1) of this subsection a municipality may not levy or collect  
 17 the tax on intoxicating liquors, beer and nonintoxicating beer sold by or purchased from holders  
 18 of a license issued under the provisions of article seven, chapter sixty of this code.

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

33 (c) Every municipality ~~shall have plenary power and authority to~~ may levy and collect a fee  
 34 from any private club licensee whose premises are situate therein as authorized in section seven,  
 35 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, beer and nonintoxicating beer 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 and beer from state stores or other agencies of the Alcohol  
5 Beverage 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           (4) Of nonintoxicating beer from any person licensed to sell nonintoxicating beer at retail  
11 to the public under the provisions of article sixteen, chapter eleven of this code; and

12           (5) Of nonintoxicating beer from distributors licensed to sell or distribute nonintoxicating  
13 beer under the provisions of article sixteen, chapter eleven of this code.

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

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

27 customarily used as ingress and egress to the place of tax collection.

28       (d) The West Virginia Alcohol Beverage Control Commissioner by appropriate rules and  
29 ~~regulations~~ shall provide for the collection of ~~such~~ the tax upon all purchases outside the corporate  
30 limits of any municipality of intoxicating liquor and beer from state stores or other agencies of the  
31 Alcohol Beverage Control Commissioner, separation or proration of the ~~same~~ tax and distribution  
32 ~~thereof~~ to the respective counties and municipalities for which the ~~same shall be~~ tax is collected.  
33 The Tax Commissioner by appropriate rules ~~and regulations~~ shall provide for the collection of  
34 ~~such~~ the tax upon all purchases outside the corporate limits of any municipality of wine from any  
35 person licensed to sell wine at retail under the provisions of article eight, chapter sixty of this code,  
36 ~~or~~ from distributors licensed to sell or distribute wine under the provisions of said article eight,  
37 from the person licensed to sell nonintoxicating beer at retail to the public under the provisions of  
38 article sixteen, chapter eleven of this code, or from the distributor licensed to sell or distribute  
39 nonintoxicating beer under the provisions of article sixteen, chapter eleven of this code, and shall  
40 also provide for separation or proration of the ~~same~~ tax and distribution thereof to the respective  
41 counties and municipalities for which the ~~same shall be~~ tax is collected. ~~Such~~ The rules and  
42 ~~regulations~~ shall provide that ~~all~~ ~~such~~ the taxes shall be deposited with the State Treasurer and  
43 distributed quarterly by the Treasurer upon warrants of the Auditor payable to the counties and  
44 municipalities.

NOTE: The purpose of this bill is to give authority to municipalities to impose taxes on beer and nonintoxicating beer and to impose a tax on purchases of beer and nonintoxicating beer outside corporate limits of municipalities for benefit of counties and municipalities.

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