

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

## **House Bill 2318**

BY DELEGATE ROHRBACH AND LOVEJOY

[Introduced January 11, 2019; 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; and to  
2 amend said code by adding thereto a new section, designated §11-19-2a, all relating to  
3 taxes on soft drinks and soft drink syrups; and changing persons responsible for the taxes.

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

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

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

1 For the purpose of providing revenue for the construction, maintenance, and operation of  
2 a four-year school of medicine, dentistry, and nursing of West Virginia University, an excise tax is  
3 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 1¢ on each sixteen and nine-tenths fluid ounces, or  
7 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 80¢, and in like ratio on each part gallon  
9 thereof, or on each four liters of soft drink syrup a tax of 84¢, and in like ratio on each part four  
10 liters thereof.

11 (3) On each ounce by weight of dry mixture or fraction thereof used for making soft drinks,  
12 a tax of 1¢ or on each 28.35 grams, or fraction thereof, a tax of 1¢.

13 Any person manufacturing or producing within this state any bottled soft drink or soft drink  
14 syrup for sale within this state and any distributor, wholesale dealer or retail dealer or any other  
15 person who is the original consignee of any bottled soft drink or soft drink syrup manufactured or  
16 produced outside this state, or who brings such drinks or syrups into this state, ~~shall be~~ is liable  
17 for the excise tax hereby imposed. After June 30, 2019, the tax imposed by this article shall be  
18 paid by persons specified in §11-19-2a of this code. The excise tax hereby imposed shall not be  
19 collected more than once in respect to any bottled soft drink or soft drink syrup manufactured,  
20 sold, used, or distributed in this state.

21 All revenue collected by the commissioner under the provisions of this article, less such  
22 costs of administration as are hereinafter provided for, shall be paid by him or her into a special  
23 medical school fund, which is hereby created in the State Treasury, to be used solely for the  
24 construction, maintenance, and operation of a four-year school of medicine, dentistry and nursing,  
25 as otherwise provided by law.

**§11-19-2a. Persons subject to tax.**

1 (a)(1) For purposes of this article, any distributor, dealer, subjobber, subjobber dealer,  
2 retailer, or any other person that imports or transports bottled soft drink or soft drink syrup into  
3 this state, or that causes bottled soft drink or soft drink syrup to be imported or transported into  
4 this state, is considered to be a wholesaler for purposes of this section and is liable for the tax  
5 imposed under this article. No wholesaler or other person may purchase bottled soft drink or soft  
6 drink syrup from any seller not approved by the Tax Commissioner.

7 (2) Only one sale of bottled soft drink or soft drink syrup shall be used in computing the  
8 amount of tax due under this article.

9 (b) How tax paid; invoice required; reports required; records to be kept. —

10 (1) The tax imposed in this section on bottled soft drink or soft drink syrup shall be paid  
11 using an invoice method prescribed by the Tax Commissioner.

12 (2) Contents of delivery ticket or invoice. — Unless otherwise permitted in writing by the  
13 Tax Commissioner, each delivery ticket or invoice for each purchase or sale of bottled soft drink  
14 or soft drink syrup shall be recorded upon a serially numbered invoice showing:

15 (A) The name and address of the seller and the purchaser;

16 (B) The point of delivery;

17 (C) The date;

18 (D) The invoice must either set out the amount of tax imposed by this article separately on  
19 the invoice or the invoice may instead indicate that the tax imposed under this article is included  
20 in the total price; and

21        (E) Any other information required by the Tax Commissioner.

NOTE: The purpose of this bill is to change the persons responsible for the taxes on soft drinks and soft drink syrups.

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