

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2829

BY DELEGATES NELSON, HOUSEHOLDER, SHOTT,
ELLINGTON, ATKINSON, JENNINGS, SYPOLT, HARTMAN,
CAMPBELL, COOPER AND COWLES

[Introduced February 4, 2019; Referred
to the Committee on Finance.]

1 A BILL to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended, relating
2 to termination and expiration of the taxes imposed upon persons exercising the privilege
3 of engaging or continuing within this state in the business of severing, extracting, reducing
4 to possession and producing for sale, profit or commercial use limestone or sandstone on
5 and after July 1, 2019.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

**§11-13A-3. Imposition of tax on privilege of severing coal, ~~limestone or sandstone, or~~
~~furnishing certain health care services, effective dates therefor; reduction of~~
~~severance rate for coal mined by underground methods based on seam thickness;~~
termination of severance tax on healthcare services; termination of severance taxes
on limestone and sandstone.**

1 (a) *Imposition of tax.* — Upon every person exercising the privilege of engaging or
2 continuing within this state in the business of severing, extracting, reducing to possession and
3 producing for sale, profit or commercial use coal, limestone or sandstone, or in the business of
4 furnishing certain health care services, there is hereby levied and shall be collected from every
5 person exercising such privilege an annual privilege tax.

6 (b) *Rate and measure of tax.* — Subject to the provisions of §11-13A-3(g) of this code, the
7 tax imposed in §11-13A-3(a) of this code shall be five percent of the gross value of the natural
8 resource produced or the health care service provided, as shown by the gross income derived
9 from the sale or furnishing thereof by the producer or the provider of the health care service,
10 except as otherwise provided in this article. In the case of coal, this five percent rate of tax includes
11 the thirty-five one hundredths of one percent additional severance tax on coal imposed by the
12 state for the benefit of counties and municipalities as provided in §11-13A-6 of this code.

13 (c) *“Certain health care services” defined.* — For purposes of this section, the term “certain
14 health care services” means, and is limited to, behavioral health services.

15 (d) *Tax in addition to other taxes.* — The tax imposed by this section shall apply to all
16 persons severing or processing, or both severing and processing, in this state natural resources
17 enumerated in §11-13A-3(a) of this code and to all persons providing certain health care services
18 in this state as enumerated in §11-13A-3(c) of this code and shall be in addition to all other taxes
19 imposed by law.

20 (e) *Effective date.* — This section, as amended in 1993, shall apply to gross proceeds
21 derived after May 31, 1993. The language of this section, as in effect on January 1, 1993, shall
22 apply to gross proceeds derived prior to June 1, 1993 and, with respect to such gross proceeds,
23 shall be fully and completely preserved.

24 (f) *Reduction of severance tax rate.* — For tax years beginning after the effective date of
25 this subsection, any person exercising the privilege of engaging within this state in the business
26 of severing coal for the purposes provided in §11-13A-3(a) of this code shall be allowed a reduced
27 rate of tax on coal mined by underground methods in accordance with the following:

28 (1) For coal mined by underground methods from seams with an average thickness of 37
29 inches to 45 inches, the tax imposed in §11-13A-3(a) of this code shall be two percent of the gross
30 value of the coal produced. For coal mined by underground methods from seams with an average
31 thickness of less than 37 inches, the tax imposed in §11-13A-3(a) of this code shall be one percent
32 of the gross value of the coal produced. Gross value is determined from the sale of the mined
33 coal by the producer. This rate of tax includes the thirty-five one hundredths of one percent
34 additional severance tax imposed by the state for the benefit of counties and municipalities as
35 provided in §11-13A-6 of this code.

36 (2) This reduced rate of tax applies to any new underground mine producing coal after the
37 effective date of this subsection, from seams of less than 45 inches in average thickness or any
38 existing mine that has not produced coal from seams 45 inches or less in thickness in the 180
39 days immediately preceding the effective date of this subsection.

40 (3) The seam thickness shall be based on the weighted average isopach mapping of

41 actual coal thickness by mine as certified by a professional engineer.

42 (g)(1) *Termination and expiration of the behavioral health severance and business*
43 *privilege tax.* — The tax imposed upon providers of health care services under the provisions of
44 this article shall expire, terminate and cease to be imposed with respect to privileges exercised
45 on or after July 1, 2016. Expiration of the tax as provided in this subsection shall not relieve any
46 person from payment of any tax imposed with respect to privileges exercised before the expiration
47 date.

48 (2) *Refunds made.* — The Tax Commissioner will issue a requisition on the Treasury for
49 any amount finally, administratively or judicially determined to be an overpayment of the tax
50 terminated under this subsection. The Auditor shall issue a warrant on the Treasurer for any
51 refund requisitioned under this subsection payable to the taxpayer entitled to the refund, and the
52 Treasurer shall pay the warrant out of the fund into which the amount refunded was originally
53 paid.

54 (h) *Termination and expiration of the privilege tax on limestone or sandstone.* — The taxes
55 imposed under this section for persons exercising the privilege of engaging or continuing within
56 this state in the business of severing, extracting, reducing to possession and producing for sale,
57 profit or commercial use limestone or sandstone shall cease, terminate and be of no further force
58 or effect on and after July 1, 2019. Termination of the taxes imposed under this section do not
59 relieve any person of any liability or duty to pay tax imposed under this article with respect to
60 privileges exercised before the effective date of the termination.

NOTE: The purpose of this bill is to terminate and expire termination of severance taxes on limestone and sandstone effective July 1, 2019.

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