

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

**Introduced**

### **House Bill 4055**

**FISCAL  
NOTE**

BY DELEGATE KUMP

[Introduced January 08, 2020; Referred to the  
Committee on Political Subdivisions then Finance]

1 A BILL to amend and reenact §60-3-9d of the Code of West Virginia, 1931, as amended; and to  
 2 amend and reenact §60-3A-21 of said code, all relating to allowing Class IV municipalities  
 3 to receive proceeds from taxes on the purchase of liquor from retail licensees and on the  
 4 purchase of intoxicating liquor from state stores or other agencies of the Alcohol Beverage  
 5 Control Commissioner that are outside of but within one mile of the corporate limits of the  
 6 Class IV municipalities.

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

### **ARTICLE 3. SALES BY COMMISSIONER.**

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

1 (a)(1) For the purpose of providing financial assistance to and for the use and benefit of  
 2 the various counties and municipalities of this state, there is hereby levied a tax upon all  
 3 purchases of intoxicating liquor from state stores or other agencies of the Alcohol Beverage  
 4 Control Commissioner, of wine from any person licensed to sell wine at retail under the provisions  
 5 of §60-8-1 *et seq.* of this code, and of wine from distributors licensed to sell or distribute wine  
 6 under the provisions of §60-8-1 *et seq.* of this code. The tax shall be five percent of the purchase  
 7 price and shall be added to and collected with the purchase price by the commissioner, by the  
 8 person licensed to sell wine at retail, or by the distributor licensed to sell or distribute wine, as the  
 9 case may be: *Provided*, That the tax may not be collected on the intoxicating liquors sold by or  
 10 purchased from holders of a license issued under the provisions of §60-7-1 *et seq.* of this code:  
 11 *Provided, however*, That the tax may not be collected on purchases of intoxicating liquors or wine  
 12 in the original sealed package for the purpose of resale in the original sealed package if the final  
 13 purchase of such intoxicating liquors or wine is subject to the tax imposed under this section,  
 14 under §8-13-7 of this code, or under §60-3A-21 of this code. This section ~~may~~ does not be  
 15 ~~interpreted to~~ authorize a purchase for resale exemption in contravention of §11-15-9a of this  
 16 code. For purposes of this article, the term “original sealed package” means an original sealed

17 package as defined in §8-13-7 of this code.

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

25 ~~(B) Effective January 1, 2019~~ (A) Except as provided in paragraph (B) of this subdivision,  
26 all such tax collected on sales sourced within the corporate limits of any municipality within the  
27 state shall be remitted to that municipality. All such tax collected on sales sourced outside the  
28 corporate limits of any municipality shall be remitted to the county in which the sale is sourced.

29 (B) Effective January 1, 2021 in addition to the tax collected on sales sourced within the  
30 corporate limits of a Class IV municipality, the tax collected outside of but within one mile of the  
31 corporate limits of a Class IV municipality shall also be remitted to that municipality. Where the  
32 corporate limits of more than one Class IV municipality is within one mile of the place of collection  
33 of the tax, all the tax collected shall be divided equally among each of the Class IV municipalities.  
34 The mile shall be measured by the most direct hard surface road or access way usually and  
35 customarily used as ingress and egress to the place of tax collection.

36 (C) When determining whether the tax is collected within the corporate limits of any  
37 municipality, a seller shall use the sourcing rules provided in §11-15B-1 *et seq.* of this code.

38 (3) *Rulemaking.* — (A) The Tax Commissioner shall propose rules for promulgation in  
39 accordance with the requirements of §29A-3-1 *et seq.* of this code to provide for the collection of  
40 the tax required by this section. The Tax Commissioner may promulgate emergency rules in  
41 accordance with §29A-3-15 of this code, as necessary, to carry out the requirements of this  
42 section.

43 (B) The West Virginia Alcohol Beverage Control Commissioner may propose rules for  
 44 promulgation in accordance with the requirements of §29A-3-1 *et seq.* of this code to provide for  
 45 the collection of the tax required by this section. The West Virginia Alcohol Beverage Control  
 46 Commissioner may promulgate emergency rules in accordance with §29A-3-15 of this code, as  
 47 necessary, to carry out the requirements of this section.

48 (b) For purposes of this section, terms have the same meaning as provided in §8-13-7(b)  
 49 of this code.

### **ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.**

#### **§60-3A-21. Tax on purchases of liquor.**

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 tax upon all purchases of  
 3 liquor from retail licensees. The tax shall be five percent of the purchase price and shall be added  
 4 to and collected with the purchase price by the retail licensee.

5 ~~(b) (1) All such tax collected within the corporate limits of a municipality in this state shall~~  
 6 ~~be remitted to such municipality; all such tax collected outside of but within one mile of the~~  
 7 ~~corporate limits of any municipality shall be remitted to such municipality; and all other tax so~~  
 8 ~~collected shall be remitted to the county in which it was collected: *Provided*, That where the~~  
 9 ~~corporate limits of more than one municipality is within one mile of the place of collection of such~~  
 10 ~~tax, all such tax collected shall be divided equally among each of such municipalities: *Provided*,~~  
 11 ~~however, That such mile is measured by the most direct hard surface road or access way usually~~  
 12 ~~and customarily used as ingress and egress to the place of tax collection~~

13 ~~(2) Effective January 1, 2019~~ (1) Except as provided in subdivision (2) of this subsection,  
 14 all such tax collected on sales sourced within the corporate limits of any municipality within the  
 15 state shall be remitted to that municipality. All such tax collected on sales sourced outside the  
 16 corporate limits of any municipality shall be remitted to the county in which the sale is sourced.

17 (2) Effective January 1, 2021, in addition to tax collected on sales sourced within the

18 corporate limits of a Class IV municipality, the tax collected outside of but within one mile of the  
19 corporate limits of a Class IV municipality shall also be remitted to that municipality. Where the  
20 corporate limits of more than one Class IV municipality is within one mile of the place of collection  
21 of the tax, all the tax collected shall be divided equally among each of the Class IV municipalities.  
22 The mile shall be measured by the most direct hard surface road or access way usually and  
23 customarily used as ingress and egress to the place of tax collection.

24 (3) When determining whether the tax is collected on sales within the corporate limits of  
25 any municipality, a seller shall use the sourcing rules provided in §11-15B-1 *et seq.* of this code.

26 (c) The Tax Commissioner, by appropriate rule promulgated pursuant to §29A-3-1 *et seq.*  
27 of this code, shall provide for the collection of such tax upon all purchases from retail licensees,  
28 separation or proration of the same, and distribution thereof to the respective counties and  
29 municipalities for which the same shall be collected. Such rule shall provide that all such taxes  
30 shall be deposited with the state Treasurer and distributed quarterly by the state Treasurer upon  
31 warrants of the Auditor payable to the counties and municipalities.

NOTE: The purpose of this bill is to allow Class IV municipalities to receive proceeds from taxes on the purchase of liquor from retail licensees and on the purchase of intoxicating liquor from state stores or other agencies of the Alcohol Beverage Control Commissioner that are outside of but within one mile of the corporate limits of the Class IV 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.