

Senate Bill No. 357

(By Senators Tucker and Barnes)

[Introduced February 22, 2013; referred to the Committee on
Government Organization; and then to the Committee on Finance.]

A BILL to amend and reenact §7-18-3 of the Code of West Virginia,
1931, as amended, relating to including commercial campsites
in the definition of "hotel" for the purposes of the hotel
occupancy tax.

Be it enacted by the Legislature of West Virginia:

That §7-18-3 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 18. HOTEL OCCUPANCY TAX.

§7-18-3. Definitions.

For the purposes of this article:

(a) "Consideration paid" or "consideration" means the amount
received in money, credits, property or other consideration for or
in exchange for the right to occupy a hotel room as herein defined.

(b) "Consumer" means a person who pays the consideration for

1 the use or occupancy of a hotel room. The term "consumer" shall
2 not be construed to mean the government of the United States of
3 America, its agencies or instrumentalities, or the government of
4 the State of West Virginia or political subdivisions thereof.

5 (c) "Hotel" means any facility, building or buildings,
6 publicly or privately owned (including a facility located in a
7 state, county or municipal park), in which the public may, for a
8 consideration, obtain sleeping accommodations. The term shall
9 include, but not be limited to, boarding houses, hotels, motels,
10 inns, courts, condominiums, lodges, cabins, ~~and~~ tourist homes, and
11 commercial campsites. The term "hotel" shall include state, county
12 and city parks offering accommodations as herein set forth. The
13 term "hotel" shall not be construed to mean any hospital,
14 sanitarium, extended care facility, nursing home or university or
15 college housing unit, or any facility providing fewer than three in
16 private homes, not exceeding a total of ten days in a calendar
17 year, nor any noncommercial tent, trailer or camper campsites:
18 *Provided*, That where a university or college housing unit provides
19 sleeping accommodations for the general nonstudent public for a
20 consideration, the term "hotel" shall, if otherwise applicable,
21 apply to such accommodations for the purposes of this tax.

22 (d) "Hotel operator" means the person who is proprietor of a
23 hotel, whether in the capacity of owner, lessee, mortgagee in

1 possession, licensee, trustee in possession, trustee in bankruptcy,
2 receiver, executor or in any other capacity. Where the hotel
3 operator performs his or her functions through a managing agent of
4 any type or character other than an employee, the managing agent
5 shall also be deemed a hotel operator for the purposes of this
6 article and shall have the same duties and liabilities as his or
7 her principal. Compliance with the provisions of this article by
8 either the principal or the managing agent shall, however, be
9 considered to be compliance by both.

10 (e) "Hotel room" means any room or suite of rooms or other
11 facility affording sleeping accommodations to the general public
12 and situated within a hotel. The term "hotel room" shall not be
13 construed to mean a banquet room, meeting room or any other room
14 not primarily used for, or in conjunction with, sleeping
15 accommodations.

16 (f) "Person" means any individual, firm, partnership, joint
17 venture, association, syndicate, social club, fraternal
18 organization, joint stock company, receiver, corporation, guardian,
19 trust, business trust, trustee, committee, estate, executor,
20 administrator or any other group or combination acting as a unit.

21 (g) "State park" means any state-owned facility which is part
22 of this state's park and recreation system established pursuant to
23 this code. For purposes of this article, any recreational facility

1 otherwise qualifying as a "hotel" and situated within a state park
2 shall be deemed to be solely within the county in which the
3 building or buildings comprising said facility are physically
4 situated, notwithstanding the fact that the state park within which
5 said facility is located may lie within the jurisdiction of more
6 than one county.

7 (h) "Tax," "taxes" or "this tax" means the hotel occupancy tax
8 authorized by this article.

9 (i) "Taxing authority" means a municipality or county levying
10 or imposing the tax authorized by this article.

11 (j) "Taxpayer" means any person liable for the tax authorized
12 by this article.

NOTE: The purpose of this bill is to include commercial
campsites in the definition of hotel for the purposes of the hotel
occupancy tax.

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