

1 of said code be amended and reenacted, all to read as follows:

2 **CHAPTER 11. TAXATION.**

3 **ARTICLE 16. NONINTOXICATING BEER.**

4 **§11-16-13. Barrel tax on nonintoxicating beer.**

5 (a) There is ~~hereby levied and imposed~~, in addition to the
6 license taxes provided for in this article, a tax of ~~\$5.50~~ \$11 on
7 each barrel of thirty-one gallons and in like ratio on each part
8 barrel of nonintoxicating beer manufactured in this state for sale
9 within this state, whether contained or sold in barrels, bottles or
10 other containers, and a like tax is ~~hereby levied and imposed~~ upon
11 all nonintoxicating beer manufactured outside of this state and
12 brought into this state for sale within this state; but no
13 nonintoxicating beer manufactured, sold or distributed in this
14 state is subject to more than one barrel tax: Provided, That \$5.50
15 of the barrel tax shall be paid into the "Prevention, Intervention,
16 Treatment and Recovery Fund", as provided in article forty-three,
17 chapter sixteen of this code. The brewer manufacturing or producing
18 nonintoxicating beer within this state for sale within this state
19 shall pay the barrel tax on such nonintoxicating beer, and, except
20 as provided otherwise, the distributor who is the original
21 consignee of nonintoxicating beer manufactured or produced outside
22 of this state, or who brings such nonintoxicating beer into this
23 state, shall pay the barrel tax on such nonintoxicating beer

1 manufactured or produced outside of this state: *Provided, That*
2 however, That the barrel tax imposed by this section ~~shall~~ may not
3 apply to nonintoxicating beer manufactured by a brewpub.

4 (b) On or before the tenth day of each month during the
5 license period, every brewer or operator of a brewpub who
6 manufactures or produces nonintoxicating beer within this state
7 shall file a report in writing, under oath, to the Tax
8 Commissioner, in the form prescribed by the Tax Commissioner,
9 stating its total sales, or in the case of a brewpub, its total
10 estimated production of nonintoxicating beer within this state
11 during that month, and at the same time shall pay the tax levied by
12 this article on such production. On or before the tenth day of
13 each month during the license period, every distributor who is the
14 original consignee of nonintoxicating beer manufactured or produced
15 outside this state or who brings such beer into this state for sale
16 shall file a report in writing, under oath, to the Tax
17 Commissioner, in the form prescribed by the Tax Commissioner,
18 stating its total estimated purchases of such nonintoxicating beer
19 during that month, and at the same time shall pay the tax thereon
20 levied by this article for such estimated monthly purchase:
21 *Provided, That* the Tax Commissioner may allow, or require, a brewer
22 who manufactures or produces nonintoxicating beer outside this
23 state to file the required report and pay the required tax on
24 behalf of its distributor or distributors. Any brewer or

1 distributor or operator of a brewpub who files a report under this
2 subsection may adjust its monthly estimated sales or purchases or
3 production report or reports by filing amended reports by the
4 twenty-fifth day of the reporting month.

5 (c) Every brewer or distributor or operator of a brewpub who
6 files a report under subsection (b) of this section shall file a
7 final monthly report of said sales or purchases or production, in
8 a form and at a time prescribed by the Tax Commissioner, stating
9 actual nonintoxicating beer sales, purchases, or production and
10 other information which the Tax Commissioner may require, and shall
11 include a remittance for any barrel tax owed for actual sales or
12 purchases or production made in excess of the amount estimated for
13 that month.

14 (d) Any brewer or distributor or operator of a brewpub who
15 files a report pursuant to subsection (b) of this section
16 reflecting an underestimation of twenty-five percent or more of
17 actual sales or purchases or production of nonintoxicating beer as
18 shown by the report filed pursuant to subsection (c) of this
19 section shall be assessed a penalty of one percent of the total
20 taxes due in such prior month.

21 (e) Brewers and distributors and operators of brewpubs shall
22 keep all records which relate to the sale or purchase in this state
23 of nonintoxicating beer for a period of three years unless written
24 approval for earlier disposal is granted by the Tax Commissioner.

1 (f) Brewpubs shall keep such records as required by the
2 federal government and may, in lieu of the recordkeeping and
3 reporting requirements contained in subsections (a) through (e) of
4 this section, file copies of the federal reports contemporaneously
5 with the Tax Commissioner at the time of such filings with the
6 federal government. The filing of duplicate copies of the federal
7 reports with the State Tax Commissioner shall be deemed as
8 compliance with subsections (a) through (e) of this section.

9 **CHAPTER 16. PUBLIC HEALTH.**

10 **ARTICLE 43. SUBSTANCE ABUSE PREVENTION, INTERVENTION, TREATMENT**

11 **AND RECOVERY.**

12 **§16-43-1. Purpose.**

13 The purpose of this article is to take bold, aggressive action
14 against the substance abuse problems that are pervasive in this
15 state. Changing the environment in our state that currently permits
16 the problem to thrive requires the implementation of a well
17 developed state plan.

18 **§16-43-2. Prevention, Intervention, Treatment and Recovery Fund.**

19 The "Prevention, Intervention, Treatment and Recovery Fund" is
20 created by this section within the State Treasury. Revenues
21 generated by an increased barrel tax on nonintoxicating beer
22 pursuant to section thirteen, article sixteen, chapter eleven of
23 this code, an increased tax on the sale of liquor pursuant to

1 section seventeen, article three-a, chapter sixty of this code and
 2 an increased liter tax pursuant to section four, article eight,
 3 chapter sixty of this code on the sale of wine shall be transferred
 4 into that special account. Funds shall be expended in a manner
 5 consistent with the "Governor's Comprehensive Strategic Plan to
 6 Address Substance Abuse in West Virginia."

7 **CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.**

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

9 **§60-3A-17. Wholesale prices set by commissioner; retail licensees**
 10 **to purchase liquor from state; transportation and**
 11 **storage; method of payment.**

12 (a) The commissioner shall fix wholesale prices for the sale
 13 of liquor, other than wine, to retail licensees. The commissioner
 14 shall sell liquor, other than wine, to retail licensees according
 15 to a uniform pricing schedule. The commissioner shall obtain if
 16 possible, upon request, any liquor requested by a retail licensee.

17 (b) Wholesale prices shall be established in order to yield a
 18 net profit for the General Fund of not less than \$6,500,000
 19 annually on an annual volume of business equal to the average for
 20 the past three years. The net revenue derived from the sale of
 21 alcoholic liquors shall be deposited into the General Revenue Fund
 22 in the manner provided in section seventeen, article three of this
 23 chapter: Provided, That wholesale prices shall be set in a manner

1 to yield a net profit, for the Prevention, Intervention, Treatment
2 and Recovery Fund created by section two, article forty-three,
3 chapter sixteen of this code, of not less than \$6.5 million
4 annually on an annual volume of business equal to the average for
5 the past three years.

6 (c) The commissioner shall specify the maximum wholesale
7 markup percentage which may be applied to the prices paid by the
8 commissioner for all liquor, other than wine, in order to determine
9 the prices at which all liquor, other than wine, will be sold to
10 retail licensees. A retail licensee shall purchase all liquor,
11 other than wine, for resale in this state only from the
12 commissioner, and ~~the provisions of~~ sections twelve and thirteen,
13 article six of this chapter shall not apply to the transportation
14 of the liquor: *Provided*, That a retail licensee shall purchase
15 wine from a wine distributor who is duly licensed under article
16 eight of this chapter. All liquor, other than wine, purchased by
17 retail licensees shall be stored in the state at the retail outlet
18 or outlets operated by the retail licensee: *Provided, however*,
19 That the commissioner, in his or her discretion, may upon written
20 request permit a retail licensee to store liquor at a site other
21 than the retail outlet or outlets.

22 (d) The sale of liquor by the commissioner to retail licensees
23 shall be paid by electronic funds transfer which shall be initiated
24 by the commissioner on the business day following the retail

1 licensees order or by money order, certified check or cashier's
2 check which shall be received by the commissioner at least
3 twenty-four hours prior to the shipping of the alcoholic liquors:
4 *Provided*, That if a retail licensee posts with the commissioner an
5 irrevocable letter of credit or bond with surety acceptable to the
6 commissioner from a financial institution acceptable to the
7 commissioner guaranteeing payment of checks, then the commissioner
8 may accept the retail licensee's checks in an amount up to the
9 amount of the letter of credit.

10 (e) (1) A retail licensee may not sell liquor to persons
11 licensed under ~~the provisions of~~ article seven of this chapter at
12 less than one hundred ten percent of the retail licensee's cost as
13 defined in section six, article eleven-a, chapter forty-seven of
14 this code.

15 (2) A retail licensee may not sell liquor to the general
16 public at less than one hundred ten percent of the retail
17 licensee's cost as defined in section six, article eleven-a,
18 chapter forty-seven of this code.

19 **ARTICLE 8. SALE OF WINES.**

20 **§60-8-4. Liter tax.**

21 There is ~~hereby levied and~~ imposed on all wine sold after July
22 1, 2007, by suppliers to distributors, and including all wine sold
23 and sent to West Virginia adult residents from direct shippers,
24 except wine sold to the commissioner, a tax of ~~twenty-six and four~~

1 ~~hundred six thousandths~~ 52.812 cents per liter: Provided, That
2 26.406 cents of this tax be paid into the Prevention, Intervention,
3 Treatment and Recovery Fund created by section two, article
4 forty-three, chapter sixteen of this code.

5 Before the sixteenth day of each month thereafter, every
6 supplier, distributor and direct shipper shall make a written
7 report under oath to the Tax Commissioner and the commissioner
8 showing the identity of the purchaser, the quantity, label and
9 alcoholic content of wine sold by the supplier to West Virginia
10 distributors or the direct shipper to West Virginia adult residents
11 during the preceding month and at the same time shall pay the tax
12 imposed by this article on the wine sold to the distributor or the
13 West Virginia adult residents during the preceding month to the Tax
14 Commissioner.

15 The reports shall contain other information and be in the form
16 the Tax Commissioner may require. For purposes of this article,
17 the reports required by this section shall be considered tax
18 returns covered by ~~the provisions of~~ article ten, chapter eleven of
19 this code. Failure to timely file the tax returns within five
20 calendar days of the sixteenth day of each month will also subject
21 a supplier, distributor and direct shipper to penalties under
22 section eighteen of this article.

23 No wine imported, sold or distributed in this state or sold
24 and shipped to this state by a direct shipper shall be subject to

1 more than one liter tax.

NOTE: The purpose of this bill is to provide funding for substance abuse services through increased taxes on beer, wine and liquor. The bill increases the barrel tax on nonintoxicating beer, increases the tax on purchases of liquor and wine, and increases the liter tax. The bill creates a Prevention, Intervention, Treatment and Recovery Fund to fund substance abuse programs.

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

§16-43-1 and §16-43-2 are new; therefore, they have been completely underscored.