

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 375**

BY SENATORS BOSO AND SMITH

[Originating in the Committee on Natural Resources;  
reported on March 25, 2017]



1 A BILL to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended, relating  
2 to severance tax on certain natural resources; defining “mined aggregates”; changing the  
3 severance tax on mined aggregates after certain date; and making technical corrections.

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

1 That §11-13A-3 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted to read as follows:

**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~~ and mined  
aggregates; reduction of severance rate for coal mined by underground methods  
based on seam thickness.**

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.* —

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

15           (2) Mined aggregates. — For tax years beginning after December 31, 2016, the severance  
16 tax for mined aggregates is 10 cents per ton of product sold by the producer of the natural  
17 resource material. For the purposes of this section, “mined aggregates” include limestone,  
18 sandstone, sand, crushed stone, gravel, shale, dolomite and granite that has been physically  
19 severed from the earth by a natural resources producer.

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

22           (d) *Tax in addition to other taxes.* — The tax imposed by this section shall apply to all  
23 persons severing or processing, or both severing and processing, in this state natural resources  
24 enumerated in subsection (a) of this section and to all persons providing certain health care  
25 services in this state as enumerated in subsection (c) of this section and shall be in addition to all  
26 other taxes imposed by law.

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

31           (f) *Reduction of severance tax rate.* — For tax years beginning after the effective date of  
32 this subsection, any person exercising the privilege of engaging within this state in the business  
33 of severing coal for the purposes provided in subsection (a) of this section shall be allowed a  
34 reduced rate of tax on coal mined by underground methods in accordance with the following:

35           (1) For coal mined by underground methods from seams with an average thickness of  
36 thirty-seven inches to forty-five inches, the tax imposed in subsection (a) of this section shall be  
37 two percent of the gross value of the coal produced. For coal mined by underground methods  
38 from seams with an average thickness of less than thirty-seven inches, the tax imposed in  
39 subsection (a) of this section shall be one percent of the gross value of the coal produced. Gross  
40 value is determined from the sale of the mined coal by the producer. This rate of tax includes the

41 thirty-five one hundredths of one percent additional severance tax imposed by the state for the  
42 benefit of counties and municipalities as provided in section six of this article.

43 (2) This reduced rate of tax applies to any new underground mine producing coal after the  
44 effective date of this subsection, from seams of less than forty-five inches in average thickness  
45 or any existing mine that has not produced coal from seams forty-five inches or less in thickness  
46 in the one hundred eighty days immediately preceding the effective date of this subsection.

47 (3) The seam thickness shall be based on the weighted average isopach mapping of  
48 actual coal thickness by mine as certified by a professional engineer.

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

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

NOTE: The purpose of this bill is to change the severance tax on limestone, sandstone and other mined stone products from a percentage of the sales price to a flat rate.

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