

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3213

FISCAL
NOTE

BY DELEGATES BARACH, GRIFFITH, ZUKOFF, DISERIO,

FERRELL, DOYLE, WALKER, HANSEN, EVANS,

FLEISCHAUER AND HORNBuckle

[Introduced March 16, 2021; Referred to the
Committee on Small Business, Entrepreneurship and
Economic Development then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §5B-2-18; and to amend said code by adding thereto a new section,
3 designated §11-15-3d, all relating to assessing an impact fee on internet sales originating
4 or ending in the state; establishing a special revenue account administered by the West
5 Virginia Development Office; providing legislative findings relating to the need to preserve
6 retail businesses; authorizing investment of funds and use of their proceeds; assessing a
7 two percent internet impact fee; providing for the use of the fund to promote and assist
8 retail storefronts in the state; defining terms; and authorizing legislative rules by the
9 Department of Revenue.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2. WEST VIRGINIA DEVELOPMENT OFFICE.

§5B-2-18. Storefront Business Preservation Fund.

1 (a) The Storefront Business Preservation Fund is hereby created. The fund shall be
2 administered by the West Virginia Development Office and shall consist of all moneys made
3 available for the purposes and from the sources set forth in this section.
4 (b) The fund consists of moneys received from the following sources:
5 (1) All funds collected pursuant to §11-15-3d of this code and any appropriations of the
6 Legislature;
7 (2) Any moneys available from external sources; and
8 (3) All interest and other income earned from investment of moneys in the fund.
9 (c) The West Virginia Development Office shall use moneys in the fund to preserve, protect
10 and enhance retail storefronts throughout the state, preserve and promote downtown retail
11 business that have been adversely impacted by internet sales, and to assist small businesses
12 and job creation in physical retail spaces throughout the state that create jobs, generate state and

13 local taxes and preserve our traditional culture and institutions of our downtowns and small towns
 14 through preservation of our traditional retail buildings.

15 (d) Any balance, including accrued interest and any other returns, in the Storefront
 16 Business Preservation Fund at the end of each fiscal year may not expire to the General Revenue
 17 Fund but shall remain in the fund and be expended for the purposes provided by this section.

18 (e) Fund balances may be invested with the state's Consolidated Investment Fund.
 19 Earnings on the investments shall be used solely for the purposes defined in §5B-2-16(c) of this
 20 code.

CHAPTER 11. TAXATION.

ARTICLE 3. ASSESSMENTS GENERALLY.

§11-15-3d. Impact fee on internet sales.

1 (a) Legislative findings and declarations-

2 (1) The historical collection of sales taxes has been done at the point of sale in a retail
 3 setting where a storefront business has physical facilities in a retail sales location where inventory
 4 is stored and employees operating the business provide direct in-person point of sale
 5 transactions. The evolution of retail sales that has occurred in the past decades has shifted sales
 6 from retail storefronts to internet home delivery, and in many cases has allowed these businesses
 7 to compete at a lower cost and contribute less to the state and local community's property,
 8 employee and use taxes, have fewer employees and less expenses than businesses that make
 9 sales in the traditional store front sales; and

10 (2) The small businesses in the communities of this state have suffered from this shift in
 11 consumer practices, and although government should not attempt to pick winners and losers in
 12 our economic system, the preservation of rural, small town and city store front businesses is of
 13 critical importance to our state and local communities, as many of our citizens rely on those
 14 businesses for services, employment and enhancement of local government tax base, and the

15 quality of life for our citizens is severely impacted by these stuttered businesses and commercial
16 areas, and therefore require efforts to preserve their existence is a vital governmental function.
17 The establishment of an impact fee on all internet sales originating or ending in this state is hereby
18 created to fund the preservation of our local community retail businesses.

19 (b) Definitions- For the purposes of this section:

20 (1) "In person point of sales" means one of the following:

21 (A) The purchase is consummated on the premises of a retail location;

22 (B) The purchase was made electronically by use of a telephone or the internet, and the
23 delivery of the item was made at a retail location;

24 (C) The purchase was made in a local retail location and the sale item through delivery by
25 the retailer at a location within the state; or

26 (D) The item was purchased by telephone or the internet, and the purchased item was
27 delivered from a retail location to the point of delivery.

28 (2) "Internet transaction" means any retail purchase initiated using internet or telephone
29 that is delivered to the purchaser's residence, place of business or a location other than the
30 premises of the sales location by delivery of the U.S. Post Office or by a mail or package delivery
31 service.

32 (c) There is imposed an impact fee of two percent on each internet transaction, to be
33 collected for any retail sale where the purchaser is in the state or received the delivery of the
34 purchase at his or her home or at a location other than the point of origin of the sale that is within
35 the state. The calculation of the tax and fractional parts of the dollar shall be done pursuant to
36 §11-15-3 of this code.

37 (d) The proceeds of the impact fee collected pursuant to this section shall be deposited
38 into Storefront Business Preservation Fund as established pursuant to §5B-2-18 of this code.

39 (e) The Tax Commissioner shall propose rules for legislative approval in accordance with
40 §29A-3-1 et seq. of this code, necessary to effectuate the provisions of this section.

41

NOTE: The purpose of this bill is to assess a sales tax of 2% for all internet sales originating or delivered within this state to help preserve store-front businesses in the communities of the state.

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