

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2267

BY DELEGATE D. SMITH

[Passed April 12, 2025; in effect from passage]

1 AN ACT to amend and reenact §64-7-1 *et seq.* of the Code of West Virginia, 1931, as amended,
2 relating to authorizing certain agencies of the Department of Revenue to promulgate
3 legislative rules; authorizing the rules as filed and as modified by the Legislative Rule-
4 Making Review Committee and as amended by the Legislature; authorizing the Alcohol
5 Beverage Control Administration to promulgate a legislative rule relating to private clubs;
6 authorizing the Alcohol Beverage Control Administration to promulgate a legislative rule
7 relating to the sale of wine and hard cider; authorizing the Alcohol Beverage Control
8 Administration to promulgate a legislative rule relating to tobacco products in vending
9 machines; authorizing the Alcohol Beverage Control Administration to promulgate a
10 legislative rule relating to distilleries, mini-distilleries, and micro-distilleries; authorizing the
11 Alcohol Beverage Control Administration to promulgate a legislative rule relating to retail
12 enforcement of select plant-based derivatives and derivative products, including hemp
13 and kratom; authorizing the Alcohol Beverage Control Administration to promulgate a
14 legislative rule relating to nonintoxicating beer licensing and operations procedures;
15 authorizing the Insurance Commissioner to promulgate a legislative rule relating to
16 Medicare Supplement Insurance; authorizing the Lottery Commission to promulgate a
17 legislative rule relating to sports wagering; authorizing the Tax Division to promulgate a
18 legislative rule relating to payment of taxes by electronic funds transfer; authorizing the
19 Tax Division to promulgate a legislative rule relating to alternative resolution of tax
20 disputes; authorizing the Tax Division to promulgate a legislative rule relating to consumer
21 sales and service and use tax for drugs, durable medical goods, mobility enhancing
22 equipment and prosthetic devices per se exemption and motor vehicle per se exemption;
23 and authorizing the Tax Division to promulgate a legislative rule relating to the exchange
24 of information pursuant to written agreement.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF REVENUE TO PROMULGATE
LEGISLATIVE RULES.**

§64-7-1. Alcohol Beverage Control Administration.

1 The legislative rule filed in the State Register on August 20, 2024, authorized under the
2 authority of §60-7-10 of this code, relating to the Alcohol Beverage Control Administration (private
3 club, 175 CSR 02), is authorized with the following amendment: On page 13, paragraph 2.30.9,
4 after the words “(iv) canned or packaged food valued at least” by deleting “\$100” and inserting in
5 lieu thereof “\$50”.

6 And,

7 On page 24, by striking out all of paragraph 3.2.1.a., and inserting in lieu thereof a new
8 paragraph 3.2.1.a. to read as follows:

9 3.2.1.a. That is located on any college campus, state university campus, or branch
10 thereof, unless it is located in an on-campus structure listed on the National Register of Historic
11 Places located within a designated National Historic Landmark District or such private club type
12 is located upon the premises of a National Collegiate Athletic Association, or its successor,
13 approved Division I, II, or III sports stadium used for revenue generating sports by a college or
14 university on its campus and no classes are held at the sports stadium or at a private college
15 sports stadium.

16 And,

17 On page 34, subparagraph 3.4.7.c by striking out “2.22.5” and inserting in lieu thereof
18 “2.25.5”.

19 And,

20 On page 37, subsection 3.4.12.e, line six, following the words “commissioner’s
21 requirements” and the period, by inserting a new sentence to read as follows: “Furthermore,
22 where a municipality has authorized sidewalk dining areas by ordinance, a qualified permit holder

23 has obtained a sidewalk dining permit from the municipality and the Commissioner, and
24 additionally the municipality has authorized by ordinance that a qualified permit holder in the
25 PODA may provide for the lawful sale, service, and tendering of alcohol (such alcohol as
26 authorized for sale by the licensee's license) from an approved sidewalk dining area in approved
27 PODA cups to patrons, and the qualified permit holder has added the sidewalk dining area or
28 areas as a part of its WVABCA floorplan comprising its licensed premises, then such qualified
29 permit holder may conduct such lawful sales, service, and tendering of alcohol (such alcohol as
30 authorized for sale by the licensee's license) from the sidewalk dining area or areas without the
31 dining requirement for such to-go alcoholic beverage sales."

32 And,

33 On page 39, paragraph 4.2.3, after the word "A" by inserting the word "valid".

34 And,

35 On page 39, paragraph 4.2.3 by deleting the word "card".

36 And,

37 On page 39, paragraph 4.2.4, after the word "A" by inserting the word "valid".

38 And,

39 On page 39, paragraph 4.5.5 by striking out the word "The" and inserting in lieu thereof
40 the words "In each public restroom the".

41 And,

42 (a) On page 48, subparagraph 5.1.1.h by striking out the words "in a position where the
43 primary responsibility for such employment is to sell, furnish, tender, serve, or give nonintoxicating
44 beer, wine, or alcoholic liquors to any person;" and inserting in lieu thereof the words "in any
45 capacity that includes, even incidentally, the selling, furnishing, tendering, serving, or giving of
46 nonintoxicating beer, wine, or alcoholic liquors to any person;

47 On page twenty-seven, subsection 3.4.12.e, line six, following the words "commissioner's
48 requirements" and the period, by inserting a new sentence to read as follows: "Furthermore,

49 where a municipality has authorized sidewalk dining areas by ordinance, a qualified permit holder
50 has obtained a sidewalk dining permit from the municipality and the Commissioner, and
51 additionally the municipality has authorized by ordinance that a qualified permit holder in the
52 PODA may provide for the lawful sale, service, and tendering of alcohol (such alcohol as
53 authorized for sale by the licensee’s license) from an approved sidewalk dining area in approved
54 PODA cups to patrons, and the qualified permit holder has added the sidewalk dining area or
55 areas as a part of its WVABCA floorplan comprising its licensed premises, then such qualified
56 permit holder may conduct such lawful sales, service, and tendering of alcohol (such alcohol as
57 authorized for sale by the licensee’s license) from the sidewalk dining area or areas without the
58 dining requirement for such to-go alcoholic beverage sales.”

59 (b) The legislative rule filed in the State Register on August 20, 2024, authorized under
60 the authority of §60-8-23 of this code, modified by the Alcohol Beverage Control Administration
61 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
62 Register on November 14, 2024, relating to the Alcohol Beverage Control Administration (sale of
63 wine and hard cider, 175 CSR 04), is authorized.

64 (c) The legislative rule filed in the State Register on August 20, 2024, authorized under
65 the authority of §16-9A-8 of this code, relating to the Alcohol Beverage Control Administration
66 (tobacco products in vending machines, 175 CSR 09), is authorized.

67 (d) The legislative rule filed in the State Register on August 20, 2024, authorized under
68 the authority of §60-2-11 of this code, modified by the Alcohol Beverage Control Administration
69 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
70 Register on November 14, 2024, relating to the Alcohol Beverage Control Administration
71 (distilleries, mini-distilleries, and micro-distilleries, 175 CSR 10), is authorized with the following
72 amendment:

73 On page five, subsection 3.3.2., line fourteen, following the words “\$.80 per case bailment
74 fee” and the period, by striking out the remainder of subsection 3.3.2 and inserting the following:

75 “In the interest of promoting tourism and for the pricing requirements set forth in the code, a
76 distillery, mini-distillery, or micro-distillery conducting off-premises sales from its licensed
77 premises must charge the additional 27% of the full 32% wholesale markup, plus bailment and
78 delivery fees in calculating its wholesale cost prior to the applying the minimum retail markup to
79 liquor purchased by patrons for off-premises personal consumption. The 27% of the 32%
80 wholesale markup for off-premises sales at the distillery, mini-distillery, or micro-distillery’s
81 licensed premises may be retained by the licensed distillery, mini-distillery, or micro-distillery from
82 such sales. In the interest of promoting tourism, a distillery, mini-distillery, or micro-distillery is
83 only required to remit to the WVABCA the 5% wholesale markup fee and \$.80 per case bailment
84 fee for the number of bottles or cases of bottles sold from their licensed premises to the public for
85 off-premises consumption. Such remittances for the first of the month through the 15th of the
86 month shall occur on the 16th day of the month and from the 16th day of the month to the end of
87 the month shall occur on the 1st day of the next month.”

88 (e) The legislative rule filed in the State Register on August 20, 2024, authorized under
89 the authority of §19-12F-5 of this code, relating to the Alcohol Beverage Control Administration
90 (retail enforcement of select plant-based derivatives and derivative products, including hemp and
91 kratom, 175 CSR 11), is authorized.

92 (f) The legislative rule filed in the State Register on August 20, 2024, authorized under the
93 authority of §11-16-22 of this code, modified by the Alcohol Beverage Control Administration to
94 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
95 Register on October 3, 2024, relating to the Alcohol Beverage Control Administration
96 (nonintoxicating beer licensing and operations procedures, 176 CSR 01), is authorized.

§64-7-2. Insurance Commissioner.

1 The legislative rule filed in the State Register on March 13, 2024, authorized under the
2 authority of §33-28-5b of this code, relating to the Insurance Commissioner (Medicare
3 Supplement Insurance, 114 CSR 24), is authorized.

§64-7-3. Lottery Commission.

1 The legislative rule filed in the State Register on August 2, 2024, authorized under the
2 authority of §29-22D-4 of this code, modified by the Lottery Commission to meet the objections
3 of the Legislative Rule-Making Review Committee and refiled in the State Register on November
4 14, 2024, relating to the Lottery Commission (West Virginia Lottery Sports Wagering Rule, 179
5 CSR 09), is authorized.

§64-7-4. Tax Division.

1 (a) The legislative rule filed in the State Register on March 11, 2024, authorized under the
2 authority of §11-10-5t of this code, modified by the State Tax Division to meet the objections of
3 the Legislative Rule-Making Review Committee and refiled in the State Register on September 3,
4 2024, relating to the State Tax Division (payment of taxes by electronic funds transfer, 110 CSR
5 10F), is authorized.

6 (b) The legislative rule filed in the State Register on August 30, 2024, authorized under
7 the authority of §11-10-23 of this code, modified by the State Tax Division to meet the objections
8 of the Legislative Rule-Making Review Committee and refiled in the State Register on October 9,
9 2024, relating to the State Tax Division (alternative resolution of tax disputes, 110 CSR 10G), is
10 authorized with the following amendment:

11 On page one, subsection 2.1, beginning on line twenty-one, following the words “Tax
12 Division”, by striking out the words “and hearings before the Office of Tax Appeals”;

13 On page two, subsection 2.7, line one, preceding the words, “Revenue for”, by striking out
14 the words “Tax and”;

15 And,

16 On page two, subsection 3.5, beginning on line thirty-seven, striking out the following:

17 “A taxpayer must file the request for the alternative dispute resolution prior to issuance of
18 a finalized notice of proposed assessment. If the request is not timely received, the Division shall
19 send the taxpayer a statement of account, and a notice of assessment and the time limitations

20 set forth in the Code for filing a petition for hearing in the Office of Tax Appeals shall commence
21 to run.”,

22 and inserting in lieu thereof the following:

23 “A taxpayer shall file the request for the alternative dispute resolution prior to issuance of
24 a finalized notice of assessment. If the request is not timely received, the Division shall send the
25 taxpayer a finalized notice of assessment and the time limitations set forth in the Code for filing a
26 petition for hearing in the Office of Tax Appeals shall commence to run.”

27 (c) The legislative rule filed in the State Register on March 11, 2024, authorized under the
28 authority of §11-10-5 of this code, relating to the State Tax Division (consumers sales and service
29 tax and use tax - drugs, durable medical goods, mobility enhancing equipment and prosthetic
30 devices per se exemption; motor vehicles per se exemption, 110 CSR 15C), is authorized.

31 (d) The legislative rule filed in the State Register on March 11, 2024, authorized under the
32 authority of §11-10-5 of this code, relating to the State Tax Division (exchange of information
33 pursuant to written agreement, 110 CSR 50C), is authorized.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect from passage.

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Speaker of the House of Delegates

.....
President of the Senate

The within is this the.....
Day of, 2025.

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Governor