

# **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

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

And,

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

And,

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

And,

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

And,

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

And,

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

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

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

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

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

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

On page five, subsection 3.3.2., line fourteen, following the words "\$.80 per case bailment 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



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

and inserting in lieu thereof the following:

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

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

(d) The legislative rule filed in the State Register on March 11, 2024, authorized under the authority of §11-10-5 of this code, relating to the State Tax Division (exchange of information 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.

.....  
*Clerk of the House of Delegates*

.....  
*Clerk of the Senate*

Originated in the House of Delegates.

In effect from passage.

.....  
*Speaker of the House of Delegates*

.....  
*President of the Senate*

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

.....  
*Governor*