

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

House Bill 2267

By Delegate D. Smith

[Enter References]

1 A BILL 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 and
13 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 Tax
19 Division to promulgate a legislative rule relating to alternative resolution of tax disputes;
20 authorizing the Tax Division to promulgate a legislative rule relating to consumer sales and
21 service and use tax for drugs, durable medical goods, mobility enhancing equipment and
22 prosthetic devices per se exemption and motor vehicle per se exemption; and authorizing
23 the Tax Division to promulgate a legislative rule relating to the exchange of information
24 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.

(a) The legislative rule filed in the State Register on August 20, 2024, authorized under the authority of §60-7-10 of this code, relating to the Alcohol Beverage Control Administration (private club, [175 CSR 02](#)), is authorized with the following amendment:

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

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

(f) The legislative rule filed in the State Register on August 20, 2024, authorized under the authority of §11-16-22 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 October 3, 2024, relating to the Alcohol Beverage Control Administration(nonintoxicating beer licensing and operations procedures, [176 CSR 01](#)), is authorized.

§64-7-2. Insurance Commissioner.

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

§64-7-3. Lottery Commission.

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

§64-7-4. Tax Division.

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

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

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

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

And,

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

“A taxpayer shall must file the request for the alternative dispute resolution ~~within thirty calendar days after the date the taxpayer received the written~~ prior to issuance of a finalized notice of proposed assessment. If the request is not timely received, the ~~Department~~ Division shall 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 ~~within thirty calendar days after the date the taxpayer received the written~~ prior to issuance of a finalized notice of ~~proposed~~ assessment. If the request is not timely received, the ~~Department~~ 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.