

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Introduced**

## **House Bill 3061**

By Delegates Mallow, Jennings, Heckert, Marple, and

Miller

[Introduced February 28, 2025; referred to the  
Committee on Government Organization]

1 A BILL to amend and reenact §11-12-3 of the Code of West Virginia, 1931, as amended, relating to  
2 providing that any person who has obtained a business registration certificate to engage in  
3 business in West Virginia, may not be required to obtain a business registration license by  
4 a municipality or county.

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

**ARTICLE            12.            BUSINESS            REGISTRATION            TAX.**

**§11-12-3. Business registration certificate required; tax levied; exemption from  
registration; exemption from tax; penalty.**

1 (a) *Registration required.* -- No person ~~shall~~ may, without a business registration  
2 certificate, engage in or prosecute, in the State of West Virginia, any business activity without first  
3 obtaining a business registration certificate from the Tax Commissioner of the State of West  
4 Virginia. Additionally, before beginning business in this state, ~~such~~ that person:

5 (1) If a transient vendor, ~~shall comply~~ complies with the provisions of §11-12-20 through  
6 §11-12-25 of this code.

7 (2) If a collection agency, ~~shall comply~~ complies with the provisions of §47-16-1 *et seq.* of  
8 this code.

9 (3) If an employment agency, ~~shall comply~~ complies with the provisions of §21-2-1 *et seq.*  
10 of this code.

11 (4) If selling drug paraphernalia, as defined in section 47-19-3 of this code, ~~shall comply~~  
12 complies with the provisions of §47-19-1 *et seq.* of this code.

13 Persons engaging in or prosecuting other business activities in this state may also be  
14 subject to other provisions of this code, subject to subsection (f) of this section, which they must  
15 satisfy before commencing or while engaging in a business activity in this state.

16 (b) *Tax levied.* -- The business registration tax hereby levied shall be \$15 for each annual  
17 business registration certificate: *Provided*, That for registration periods beginning on or after July  
18 1, 1999, the business registration tax shall be \$30, except as otherwise provided in this article:

19 *Provided, however,* That after June 30, 2010, the business registration tax shall be \$30.00 for each  
20 business registration certificate, including business registration certificates granted upon  
21 application after cessation of a business, or after suspension, revocation, cancellation or lapse of a  
22 prior business registration certificate.

23 (1) A separate business registration certificate is required for each fixed business location  
24 from which property or services are offered for sale or lease to the public as a class, or to a limited  
25 portion of the public; or at which customer accounts may be opened, closed or serviced.

26 (2) A separate business registration certificate is not required for each coin-operated  
27 machine. A separate certificate is required for each location from which making coin-operated  
28 machines available to the public is itself a business activity.

29 (3) A business that sells tangible personal property or services from or out of one or more  
30 vehicles needs a separate business registration certificate for each fixed location in this state from  
31 or out of which business is conducted. A copy of its business registration certificate shall be carried  
32 in each vehicle and publicly displayed while business is conducted from or out of the vehicle.

33 (4) A business registration certificate is required by subsection (a) of this section for every  
34 person engaging in purposeful revenue generating activity in this state. If that activity is one for  
35 which an employment agency license or a collection agency license or a license to sell drug  
36 paraphernalia is required and no other business activity is conducted by that person at each  
37 business location for which the employment agency license or collection agency license or license  
38 to sell drug paraphernalia is issued, then only that license is required for each such activity  
39 conducted by the licensee at each business location. However, if, in addition to the activity for  
40 which each license is issued, some other business activity is conducted by the licensee at such  
41 business location, a separate business registration certificate is required to conduct the  
42 nonlicensed activity.

43 (c) *Exemption from registration.* -- Any person engaging in or prosecuting business activity  
44 in this state:

45 (1) Who is not required by law to collect or withhold a tax administered under §11-10-1 *et*  
46 *seq.* of this code; and

47 (2) Who does not claim exemption from payment of taxes imposed by §11-15-1 *et seq.* and  
48 §11-15A-1 *et seq.* of this code, shall be exempt from both registration and payment of the tax  
49 imposed by this article, if such person had gross income from business activity of \$4,000 or less  
50 during that person's tax year for state income tax purposes immediately preceding the registration  
51 period for which a registration certificate is otherwise required by this article.

52 (d) *Exemptions from payment of tax.* -- Any person engaging in or prosecuting any  
53 business activity in this state who is required by law to collect or withhold any tax administered  
54 under §11-10-1 *et seq. code*; or who claims exemption from payment of the taxes imposed by §11-  
55 15-1 *et seq.* and §11-15A-1 *et seq.* of this code, shall be required to obtain a business registration  
56 certificate, as herein before provided, but shall be exempt from payment of the tax levied by  
57 subsection (b) of this section, if such person is:

58 (1) A person who had gross income from business activity of \$4,000 or less during that  
59 person's tax year for state income tax purposes immediately preceding the registration period for  
60 which a registration certificate is required under this article.

61 (2) An organization which qualifies, or would qualify, for exemption from federal income  
62 taxes under section 501 of the Internal Revenue Code of 1986, as amended.

63 (3) This state, or a political subdivision thereof, selling tangible personal property,  
64 admissions or services, when those activities compete with or may compete with the activities of  
65 another person.

66 (4) The United States, or an agency or instrumentality thereof, which is exempt from  
67 taxation by the states.

68 (5) A person engaged in the business of agriculture and farming: *Provided*, That no  
69 producer or grower selling products of the farm, garden or dairy and not included within the  
70 definition of business under §11-12-2(a) of this code shall may be required to obtain a business

71 registration certificate or pay the business registration tax.

72 (6) A foreign retailer who is not a "retailer engaging in business in this state" as defined in  
73 11-15A-1 of this code, who enters into an agreement with the Tax Commissioner to voluntarily  
74 collect and remit use tax on sales to West Virginia customers.

75 (e) *Money penalty.* -- Any person required to obtain a business registration certificate under  
76 this section, who is exempt from payment of the tax, as provided in subsection (d) of this section,  
77 who does not obtain a registration certificate shall, in lieu of paying the penalty imposed by section  
78 nine of this article, pay a penalty of \$15 for each business location for which a certificate is needed:  
79 *Provided,* That application for business registration is made and the applicable money penalty  
80 tendered to the Tax Commissioner within 15 days after such person receives written notice from  
81 the Tax Commissioner that such person is required to obtain a business registration certificate.

82 (f) Notwithstanding any other provision of this code to the contrary, any person who has  
83 obtained a business registration certificate under this section, may not be required to obtain any  
84 business registration license by a municipality or county.

NOTE: The purpose of this bill is to provide that any person who has obtained a business registration certificate to engage in business in West Virginia, may not be required to obtain a business registration license by a municipality or county.

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