

# **WEST VIRGINIA LEGISLATURE**

**2025 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 933**

BY SENATORS QUEEN, MARTIN, AND HELTON

[Reported March 31, 2025, from the Committee on  
Finance]



1 A BILL to amend and reenact §8-13-4, §8-13-5, and §11-12-3 of the Code of West Virginia, 1931,  
2 as amended; and to amend the code by adding a new article, designated §8-40-1 and §8-  
3 40-2, relating to small businesses; increasing the amount of income and revenue before  
4 a business has to obtain a business license; exempting independent contractors and sole  
5 proprietors from business licenses under certain requirements; increasing the amount of  
6 annual revenue for businesses to be exempt from business and occupation taxes and  
7 privilege taxes; creating the Small Business Protection Act; providing intent and legislative  
8 findings; and providing a short title.

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

## **CHAPTER 8. MUNICIPAL CORPORATIONS.**

### **ARTICLE 13. TAXATION AND FINANCE.**

#### **§8-13-4. Municipal license and tax thereon when state license required.**

1 (a) Whenever anything, for which a state license is required, is to be done within the  
2 corporate limits of any municipality, the governing body shall have plenary power and authority,  
3 unless prohibited by general law, to require a municipal license and for the use of the municipality  
4 to impose a reasonable tax which may not exceed the amount of the state license tax. Upon  
5 proper application for a municipal license and payment of the prescribed reasonable tax by any  
6 person who has a valid and subsisting state license, the municipal license shall be issued.

7 (b) Except where a business license tax or fee has been established by the West Virginia  
8 Code, the governing body of a municipality may, in lieu of the provisions of subsection (a), enact  
9 an ordinance creating an annual general municipal business license for anything which requires  
10 a state license that is done within the corporate limits of a municipality, the tax for which may not  
11 exceed ~~twenty~~ 20 dollars.

12 (c) Notwithstanding any other provision of law to the contrary, no municipal license shall  
13 be required for an independent contractor or sole proprietor who does not maintain a permanent

14 physical location within the municipality's city limits, which includes any business with under  
15 \$25,000 in revenue annually.

**§8-13-5. Business and occupation or privilege tax; limitation on rates; effective date of tax; exemptions; activity in two or more municipalities; administrative provisions.**

1 (a) *Authorization to impose tax.* — (1) Whenever any business activity or occupation, for  
2 which the state imposed its annual business and occupation or privilege tax under §11-13-1 *et*  
3 *seq.* of this code, prior to July 1, 1987, is engaged in or carried on within the corporate limits of  
4 any municipality, the governing body thereof shall have plenary power and authority, unless  
5 prohibited by general law, to impose a similar business and occupation tax thereon for the use of  
6 the municipality.

7 (2) Municipalities may impose a business and occupation or privilege tax upon every  
8 person engaging or continuing within the municipality in the business of aircraft repair,  
9 remodeling, maintenance, modification, and refurbishing services to any aircraft, or to an engine  
10 or other component part of any aircraft as a separate business activity.

11 (b) *Maximum tax rates.* — In no case shall the rate of the municipal business and  
12 occupation or privilege tax on a particular activity exceed the maximum rate imposed by the state,  
13 exclusive of surtaxes, upon any business activities or privileges taxed under §11-13-2a, §11-13-  
14 2b, §11-13-2c, §11-13-2d, §11-13-2e, §11-13-2g, §11-13-2h, §11-13-2i, and §11-13-2j of this  
15 code, as those rates were in effect under §11-13-1 *et seq.* of this code, on January 1, 1959, or in  
16 excess of one percent of gross income under §11-13-2k of this code, or in excess of three-tenths  
17 of one percent of gross value or gross proceeds of sale under §11-13-2m of this code. The rate  
18 of municipal business and occupation or privilege tax on the activity described in subdivision (2),  
19 subsection (a) of this section shall be ten one-hundredths of one percent. The rate of municipal  
20 business and occupation or privilege tax on the activity of a health maintenance organization  
21 holding a certificate of authority under the provisions of §33-25A-1 *et seq.* of this code, shall not  
22 exceed one-half of one percent to be applied solely to that portion of gross income received from

23 the Medicaid program pursuant to Title XIX of the Social Security Act, the state employee  
24 programs administered by the Public Employees Insurance Agency pursuant to §5-16-1 *et seq.*  
25 of this code, and other federal programs, for health care items or services provided directly or  
26 indirectly by the health maintenance organization, that is expended for administrative expenses;  
27 and shall not exceed one half of one percent to be applied to the gross income received from  
28 enrollees, or from employers on behalf of enrollees, from sources other than Medicaid, state  
29 employee programs administered by the Public Employees Insurance Agency, and other federal  
30 programs for health care items or services provided directly or indirectly by the health  
31 maintenance organization: *Provided*, That this tax rate limitation shall not extend to that part of  
32 the gross income of health maintenance organizations which is received from the use of real  
33 property other than property in which any company maintains its office or offices in this state,  
34 whether the income is in the form of rentals or royalties. This provision concerning the maximum  
35 municipal business and occupation tax rate on the activities of health maintenance organizations  
36 is effective beginning after December 31, 1996. Any payments of business and occupation tax  
37 made by a health maintenance organization to a municipality for calendar year 1997 is not subject  
38 to recovery by the health maintenance organization. Administrative expenses shall include all  
39 expenditures made by a health maintenance organization other than expenses paid for claims  
40 incurred or payments made to providers for the benefits received by enrollees.

41 (c) *Effective date of local tax.* — Any taxes levied pursuant to the authority of this section  
42 may be made operative as of the first day of the then current fiscal year or any date thereafter:  
43 *Provided*, That any new imposition of tax or any increase in the rate of tax upon any business,  
44 occupation or privilege taxed under §11-13-2e of this code, applies only to gross income derived  
45 from contracts entered into after the effective date of the imposition of tax or rate increase, and  
46 which effective date shall not be retroactive in any respect: *Provided, however*, That no tax  
47 imposed or revised under this section upon public utility services may be effective unless and until

48 the municipality provides written notice of the same by certified mail to said public utility at least  
49 60 days prior to the effective date of said tax or revision thereof.

50 (d) *Exemptions.* —

51 (1) A municipality shall not impose its business and occupation or privilege tax on any  
52 activity that was exempt from the state’s business and occupation tax under the provisions of §11-  
53 13-3 of this code, prior to July 1, 1987, and determined without regard to any annual or monthly  
54 monetary exemption also specified therein: *Provided*, That on and after July 1, 2007, a  
55 municipality may impose its business and occupation or privilege tax on any activity of a  
56 corporation, association, or society organized and operated exclusively for religious or charitable  
57 purposes that was exempt from the state’s business and occupation tax under the provisions of  
58 §11-13-3 of this code, prior to July 1, 1987, but only to the extent that the income generated by  
59 the activity is subject to taxation under the provisions of §511 of the Internal Revenue Code of  
60 1986, as amended.

61 (2) A municipality shall not impose its business and occupation or privilege tax on any  
62 business with a revenue below \$25,000 annually.

63 ~~(2)~~(3) Effective July 1, 2023, the municipal business and occupation or privilege tax on the  
64 sale of new automobiles that have never been registered in the name of an individual shall be  
65 reduced by 50 percent of the total amount of the tax: *Provided*, That, effective July 1, 2024, the  
66 remaining municipal business and occupation or privilege tax on the sale of new automobiles that  
67 have never been registered in the name of an individual shall be reduced by an additional 50  
68 percent of the total amount of the tax: *Provided, however*, That July 1, 2025, the municipal  
69 business and occupation or privilege tax on the sale of new automobiles that have never been  
70 registered in the name of an individual shall be completely eliminated. For the purposes of this  
71 section, an automobile is a self-propelled vehicle used on the roads and highways by the use of  
72 motor vehicle fuel or propelled by one or more electric motors using energy stored in batteries or  
73 a combination thereof. An automobile shall include a light-duty truck with an enclosed cabin and

74 an open loading area at the rear and a sport utility vehicle. An automobile does not include a  
75 motorcycle.

76 (e) *Activity in two or more municipalities.* — Whenever the business activity or occupation  
77 of the taxpayer is engaged in or carried on in two or more municipalities of this state, the amount  
78 of gross income, or gross proceeds of sales, taxable by each municipality shall be determined in  
79 accordance with legislative rules as prescribed by the Tax Commissioner. It is the intent of the  
80 Legislature that multiple taxation of the same gross income, or gross proceeds of sale, under the  
81 same classification by two or more municipalities shall not be allowed, and that gross income, or  
82 gross proceeds of sales, derived from activity engaged in or carried on within this state, that is  
83 presently subject to state tax under §11-13-2c or §11-13-2h of this code, which is not taxed or  
84 taxable by any other municipality of this state, may be included in the measure of tax for any  
85 municipality in this state, from which the activity was directed, or in the absence thereof, the  
86 municipality in this state in which the principal office of the taxpayer is located. Nothing in this  
87 subsection shall be construed as permitting any municipality to tax gross income or gross  
88 proceeds of sales in violation of the Constitution and laws of this state or the United States, or as  
89 permitting a municipality to tax any activity that has a definite situs outside its taxing jurisdiction.

90 (f) Where the governing body of a municipality imposes a tax authorized by this section,  
91 the governing body may offer tax credits from the tax as incentives for new and expanding  
92 businesses located within the corporate limits of the municipality.

93 (g) *Administrative provisions.* — The ordinance of a municipality imposing a business and  
94 occupation or privilege tax shall provide procedures for the assessment and collection of the tax,  
95 which shall be similar to those procedures in §11-13-1 *et seq.* of this code, as in existence on  
96 June 30, 1978, or to those procedures in §11-10-1 *et seq.* of this code, and shall conform with  
97 such provisions as they relate to waiver of penalties and additions to tax.

98 (h) *Timely payment.* — Payments for taxes due under this section that are postmarked  
99 after the due date by which they are owed shall be considered late and may be subject to late

100 fees or penalties: *Provided*, That payments that are received by the municipality after the due  
101 date, but that were postmarked on or before the due date shall be considered to be on time and  
102 shall not be assessed any late fees or penalties.

103 (i) Any third-party vendors who contract with a city or municipality to collect business and  
104 occupation taxes authorized by this section on behalf of a municipality may not charge for their  
105 services more than 20% of the amount of taxes collected.

**ARTICLE 40. SMALL BUSINESS PROTECTION ACT.**

**§8-40-1. Short title.**

1 This article may be cited as the Small Business Protection Act.

**§8-40-2. Intent and legislative findings.**

1 (a) It is the legislative intent and purpose of the Small Business Protection Act to improve  
2 state rulemaking by creating procedures to analyze the availability of more flexible regulatory  
3 approaches for small businesses.

4 (b) The legislature finds that:

5 (1) A vibrant and growing small business sector is critical to creating jobs in a dynamic  
6 economy. Increased hiring in West Virginia's small businesses creates higher wages and better  
7 outcomes for West Virginia's citizens and families;

8 (2) Small businesses bear a disproportionate share of regulatory costs and burdens.  
9 Increased regulatory costs decrease the amount of capital that small businesses have to create  
10 new jobs;

11 (3) Fundamental changes that are needed in the regulatory and enforcement culture of  
12 state agencies to make them more responsive to small business can be made without  
13 compromising the statutory missions of the agencies;

14 (4) When adopting rules to protect the health, safety, and economic welfare of West  
15 Virginia, state agencies should seek to achieve statutory goals as effectively and efficiently as  
16 possible without imposing unnecessary burdens on small employers;



17 (5) Uniform regulatory and reporting requirements can impose unnecessary and  
18 disproportionately burdensome demands, including legal, accounting, and consulting costs upon  
19 small businesses with limited resources;

20 (6) The failure to recognize differences in the scale and resources of regulated businesses  
21 can adversely affect competition in the marketplace, discourage innovation, and restrict  
22 improvements in productivity;

23 (7) Unnecessary regulations create entry barriers in many industries and discourage  
24 potential entrepreneurs from introducing beneficial products and processes;

25 (8) The practice of treating all regulated businesses as equivalent may lead to inefficient  
26 use of regulatory agency resources, enforcement problems, and, in some cases, to actions  
27 inconsistent with the legislative intent of health, safety, environmental, and economic welfare  
28 legislation;

29 (9) Alternative regulatory approaches which do not conflict with the stated objective of  
30 applicable statutes may be available to minimize the significant economic impact of rules on small  
31 businesses;

32 (10) Prior to the adoption of regulations, the process by which state regulations are  
33 developed and adopted should be reformed to require agencies to solicit the ideas and comments  
34 of small businesses, to examine the impact of proposed and existing rules on such businesses,  
35 and to review the continued need for existing rules;

36 (11) Regulations affect small businesses differently than their larger counterparts.  
37 According to the United States Small Business Administration, evidence indicates that regulatory  
38 requirements at the federal and state level tend to create disproportionately heavier burdens for  
39 small businesses, putting them at a disadvantage relative to their larger competitors. Reasons  
40 that small businesses are at a disadvantage include the following:

41 (A) The cost of regulations is higher relative to available resources. The cost of regulations  
42 per employee is higher for businesses with fewer employees; and

43 (B) The cost per employee for the smallest businesses is typically one or more times  
44 greater than the equivalent cost for the largest businesses.

45 (12) Making small businesses aware of proposed state regulations prior to implementation  
46 is key to creating an effective partnership between state agencies and small businesses.

47 (c) Nothing in the Small Business Protection Act shall be interpreted or construed to limit  
48 the ability of an agency to propose rules.

## CHAPTER 11. TAXATION.

### 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, without a business registration certificate,  
2 engage in or prosecute, in the State of West Virginia, any business activity without first obtaining  
3 a business registration certificate from the Tax Commissioner of the State of West Virginia.  
4 Additionally, before beginning business in this state, such person:

5 (1) If a transient vendor, shall comply with the provisions of sections ~~twenty~~ 20 through  
6 ~~twenty-five~~ 25 of this article.

7 (2) If a collection agency, shall comply with the provisions of ~~article sixteen, chapter forty-~~  
8 ~~seven~~ §47-16-1 et seq. of this code.

9 (3) If an employment agency, shall comply with the provisions of ~~article two, chapter~~  
10 ~~twenty-one~~ §21-2-1 et seq. of this code.

11 (4) If selling drug paraphernalia, as defined in ~~section three, article nineteen, chapter forty-~~  
12 ~~seven~~ §47-19-3 of this code, shall comply with the provisions of ~~article nineteen, chapter forty-~~  
13 ~~seven~~ §47-19-1 et seq. of this code.

14           Persons engaging in or prosecuting other business activities in this state may also be  
15 subject to other provisions of this code which they must satisfy before commencing or while  
16 engaging in a business activity in this state.

17           (b) *Tax levied.* — The business registration tax hereby levied shall be \$15 for each annual  
18 business registration certificate: *Provided*, That for registration periods beginning on or after July  
19 1, 1999, the business registration tax shall be \$30, except as otherwise provided in this article:  
20 *Provided, however*, That after June 30, 2010, the business registration tax shall be \$30.00 for  
21 each business registration certificate, including business registration certificates granted upon  
22 application after cessation of a business, or after suspension, revocation, cancellation or lapse of  
23 a prior business registration certificate.

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

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

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

35           (4) A business registration certificate is required by subsection (a) of this section for every  
36 person engaging in purposeful revenue generating activity in this state. If that activity is one for  
37 which an employment agency license or a collection agency license or a license to sell drug  
38 paraphernalia is required and no other business activity is conducted by that person at each  
39 business location for which the employment agency license or collection agency license or license

40 to sell drug paraphernalia is issued, then only that license is required for each such activity  
41 conducted by the licensee at each business location. However, if, in addition to the activity for  
42 which each license is issued, some other business activity is conducted by the licensee at such  
43 business location, a separate business registration certificate is required to conduct the  
44 nonlicensed activity.

45 (c) *Exemption from registration.* — Any person engaging in or prosecuting business  
46 activity in this state:

47 (1) Who is not required by law to collect or withhold a tax administered under article ten of  
48 this chapter; and

49 (2) Who does not claim exemption from payment of taxes imposed by articles fifteen and  
50 fifteen-a of this chapter, shall be exempt from both registration and payment of the tax imposed  
51 by this article, if such person had gross income from business activity of \$4,000 or less during  
52 that person's tax year for state income tax purposes immediately preceding the registration period  
53 for which a registration certificate is otherwise required by this article.

54 (d) *Exemptions from payment of tax.* — Any person engaging in or prosecuting any  
55 business activity in this state who is required by law to collect or withhold any tax administered  
56 under article ten of this chapter; or who claims exemption from payment of the taxes imposed by  
57 articles fifteen and fifteen-a of this chapter, shall be required to obtain a business registration  
58 certificate, as herein before provided, but shall be exempt from payment of the tax levied by  
59 subsection (b) of this section, if such person is:

60 (1) A person who had ~~gross income from business activity of \$4,000~~ net income of \$10,000  
61 or less during that person's tax year for state income tax purposes immediately preceding the  
62 registration period for which a registration certificate is required under this article.

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

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

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

70           (5) A person engaged in the business of agriculture and farming: *Provided*, That no  
71 producer or grower selling products of the farm, garden or dairy and not included within the  
72 definition of business under subsection (a), section two of this article shall be required to obtain a  
73 business registration certificate or pay the business registration tax.

74           (6) A foreign retailer who is not a "retailer engaging in business in this state" as defined in  
75 section one, article fifteen-a of this chapter, who enters into an agreement with the Tax  
76 Commissioner to voluntarily collect and remit use tax on sales to West Virginia customers.

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