

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 5065

BY DELEGATES D. CANNON, B. WARD, PHILLIPS,
MCGEEHAN, SHAMBLIN, KYLE, BROWNING, AND
HILLENBRAND

[Passed March 14, 2026; in effect 90 days from
passage (June 12, 2026)]

1 AN ACT to amend and reenact §7-18-4 of the Code of West Virginia, 1931, as amended, relating
2 to hotel occupancy tax; specifying information a marketplace facilitator is required to
3 record; requiring geofencing or similar mechanism to provide an accurate basis for tax
4 collection; requiring marketplace facilitator use a nine-digit postal code when necessary in
5 order to guarantee the collected tax is being remitted to the proper political subdivision;
6 and clarifying the political subdivision official to which taxes are remitted for certain types
7 of lodging.

Be it enacted by the Legislature of West Virginia:

ARTICLE 18. HOTEL OCCUPANCY TAX.

§7-18-4. Consumer to pay tax; collection of tax by marketplace facilitators; hotel, hotel operator, or marketplace facilitator not to represent that it will absorb tax; accounting by hotel and marketplace facilitators.

1 (a) The consumer shall pay to the hotel operator the amount of tax imposed by any
2 municipality or county hereunder, which tax shall be added to and shall constitute a part of the
3 consideration paid for the use and occupancy of the hotel room, and which tax shall be collectible
4 as such by the hotel operator who shall account for, and remit to the taxing authority, all taxes
5 paid by consumers. The hotel operator shall separately state the tax authorized by this article on
6 all bills, invoices, accounts, books of account, and records relating to consideration paid for
7 occupancy or use of a hotel room. The hotel operator may commingle taxes collected hereunder
8 with the proceeds of the rental of hotel accommodations unless the taxing authority, by ordinance,
9 order, regulation, or otherwise, requires in writing that the hotel operator segregate such taxes
10 collected from such proceeds. The taxing authority's claim shall be enforceable against, and shall
11 be superior to, all other claims against the moneys so commingled excepting only claims of the
12 state for moneys held by the hotel pursuant to the provisions of §11-15-1 *et seq.* of this code. All
13 taxes collected pursuant to the provisions of this article shall be deemed to be held in trust by the
14 hotel until those taxes have been remitted to the taxing authority as hereinafter provided.

15 (b) *Economic nexus and duty of certain marketplace facilitators to collect tax.* — Where a
16 hotel or hotel operator contracts with a marketplace facilitator to offer the use or occupancy of a
17 hotel room, such marketplace facilitator shall be responsible, on behalf of the hotel or hotel
18 operator, for the collection and remittance of the tax imposed by any municipality or county
19 pursuant to this article when:

20 (1) The marketplace facilitator makes or facilitates West Virginia sales on its own behalf
21 or on behalf of one or more hotel or hotel operators equal to or exceeding \$100,000 in gross
22 revenue for an immediately preceding calendar year, or a current calendar year; or

23 (2) The marketplace facilitator makes or facilitates West Virginia sales on its own behalf
24 or on behalf of one or more hotel or hotel operators in 200 or more separate transactions for an
25 immediately preceding calendar year or a current calendar year.

26 For purposes of this section, a marketplace facilitator meeting the requirements of this
27 subsection is deemed to be an agent of any hotel or hotel operator making retail sales through
28 the marketplace facilitator's physical or electronic marketplace.

29 (c) *Collection and remittance of tax by marketplace facilitators.* —

30 (1) Where a marketplace facilitator is responsible for the collection and remittance of the
31 tax imposed pursuant to subsection (b) of this section, the marketplace facilitator shall separately
32 state the tax authorized by this article on all bills, invoices, accounts, books of account, and
33 records relating to consideration paid for the occupancy or use of a hotel room.

34 (2) Where a hotel or hotel operator contracts with a marketplace facilitator to offer the use
35 or occupancy of a hotel room, the marketplace facilitator shall maintain records of every hotel or
36 hotel operator and such records shall include:

37 (A) The name of the hotel, motel, short-term rental, or vacation rental where the lodging
38 occurred;

39 (B) The name of the hotel, motel, short-term rental, or vacation rental owner;

40 (C) The address where the lodging occurred;

41 (D) The dates when the lodging occurred;

42 (E) The amount of tax received as required under this article;

43 (F) The date the amount of tax was received; and

44 (G) Whether the tax received was a municipal or county tax.

45 (3) A marketplace facilitator shall use geofencing or a similar mechanism to provide an
46 accurate basis for occupancy tax collection.

47 (4) A marketplace facilitator shall use a nine-digit postal code when necessary in order to
48 guarantee the collected tax is being remitted to the proper political subdivision.

49 (5) All taxes collected pursuant to the provisions of this article shall be deemed to be held
50 in trust by the marketplace facilitator, on behalf of the hotel or hotel operator, until those taxes
51 have been remitted by the marketplace facilitator to the taxing authority in accordance with §7-
52 18-10 of this code. The marketplace facilitator shall remit the tax to:

53 (A) The county treasurer for lodging taxes for county convention and visitors bureaus; and

54 (B) The municipal treasurer, clerk, or recorder as dictated by the municipal charter for
55 lodging taxes for a municipal convention and visitors bureau.

56 (6) This section does not interfere with the ability of a marketplace facilitator and a hotel
57 or hotel operator to enter into an agreement regarding fulfillment of the requirements of §7-18-1
58 *et seq.* of this code.

59 (d) A hotel, hotel operator, or marketplace facilitator may not represent to the public in any
60 manner, directly or indirectly, that it will absorb all or any part of the tax or that the tax is not
61 considered an element in the price to be collected from the consumer.

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 90 days from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2026.

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Governor