

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 639

**FISCAL
NOTE**

By Senator Takubo

[Introduced January 28, 2026; referred
to the Committee on Health and Human Resources;
and then to the Committee on Finance]

1 A BILL to amend and reenact §11-17-2 of the Code of West Virginia, 1931, as amended; and to
2 amend the code by adding two new sections, designated §16-4C-27 and §16-4C-28,
3 relating to tobacco products; defining terms; levying a user fee on cigarettes; providing the
4 user fee be directed to support Emergency Medical Services; and creating a special
5 revenue fund to receive funds from the created user fee.

Be it enacted by the Legislature of West Virginia:

CHAPTER 11. TAXATION.

ARTICLE 17. TOBACCO PRODUCTS EXCISE TAX ACT.

§11-17-2. Definitions.

1 (a) When used in this article, words, terms and phrases defined in subsection (b) of this
2 section, and any variations thereof required by the context, have the meaning ascribed to them in
3 this section, except where the context indicates a different meaning is intended.

4 (b) *Definitions.* --

5 (1) "Cigarette" means:

6 (A) Any roll for smoking made, wholly or in part, of tobacco, irrespective of size or shape
7 and whether or not the tobacco is flavored, adulterated or mixed with any ingredient, the wrapping
8 or cover of which is made of paper or any substance or material, except tobacco.

9 (B) Any roll of tobacco wrapped in any substance containing tobacco which, because of its
10 appearance, the type of tobacco used in the filler, or its packing and labeling, is likely to be offered
11 to, or purchased by, consumers as a cigarette described in paragraph (A) of this subdivision.

12 (2) "Commissioner" means the State Tax Commissioner and, where the meaning of the
13 context requires, all deputies or agents and employees duly authorized by him or her.

14 (3) "Consumer" means a person who receives or in any way comes into possession of
15 tobacco products for the purpose of consuming or giving them away or disposing of them in any
16 way other than by sale, barter or exchange.

17 (4) "Counterfeit stamp" means any stamp, label or print, indicium or character, that
18 evidences, or purports to evidence, the payment of any tax levied under this article and that has
19 not been printed, manufactured or made by authority of the commissioner, as provided in this
20 article, and has not been issued, sold or circulated by the commissioner.

21 "Electronic smoking device" means any device that can be used to deliver aerosolized or
22 vaporized nicotine, whether natural or synthetic, to the person inhaling from the device, including,
23 but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic smoking device
24 includes any component, part, or accessory of such a device, whether or not sold separately, and
25 includes any substance intended to be aerosolized or vaporized during the use of the device.
26 Electronic smoking device does not include any battery or battery charger when sold separately. In
27 addition, electronic smoking device does not include drugs, devices, or combination products
28 authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the
29 Federal Food, Drug and Cosmetic Act.

30 (5) "Manufacturer" means a person who manufactures or produces a tobacco product.

31 (6) "Other tobacco product" or "tobacco products other than cigarettes" means snuff and
32 chewing tobacco and any other tobacco product that is intended by the seller to be consumed by
33 means other than smoking and any cigar, pipe tobacco or other tobacco product other than
34 cigarettes any product other than cigarettes, that is made from or derived from tobacco or that
35 contains nicotine whether natural or synthetic, that is intended for human consumption or is likely
36 to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by
37 any other means, including, but not limited to, a cigar, pipe tobacco, chewing tobacco, snuff, or
38 snus. "Other tobacco product" or "tobacco products other than cigarettes" also means electronic
39 smoking devices and any component or accessory used in the consumption of a tobacco product,
40 such as filters, rolling papers, pipes, and substances used in electronic smoking devices, whether
41 or not they contain nicotine. "Other tobacco product" or "tobacco products other than cigarettes"
42 does not include drugs, devices, or combination products authorized for sale by the U.S. Food and

43 Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

44 (7) "Package" means the individual package, box or other container in or from which retail
45 sales of tobacco products are normally made or intended to be made.

46 (8) "Person" means and includes any individual, firm, association, company, partnership,
47 corporation, joint-stock company, club, agency, syndicate, limited liability company, other legal
48 entity, municipal corporation or other political subdivision of this state, trust, receiver, trustee,
49 fiduciary or conservator, and when used in connection with any penalties imposed by this article,
50 means and includes officers, directors, trustees or members of any firm, copartnership,
51 association, corporation, trust or any other unit acting as a group.

52 (9) "Place of business" means a place where a tobacco product is sold or where a tobacco
53 product is brought or kept for the purpose of sale or consumption, including a vessel, airplane,
54 train or vending machine.

55 (10) "Retail dealer" includes every person in this state, other than a wholesaler or
56 subjobber, engaged in the selling of tobacco products at retail to a consumer or to any person for
57 any purpose other than resale.

58 (11) "Sale" means selling, exchange, transfer of title, barter, gift, offer for sale or distribution
59 or disposition of cigarettes or other tobacco products.

60 (12) "Sale at retail" or "retail sale" means a sale to a consumer or to any person for any
61 purpose other than resale.

62 (13) "Sale by wholesaler" means and includes any bona fide transfer of title to tobacco
63 products by a wholesaler for a valuable consideration, made in the ordinary course of trade or in
64 the usual conduct of the wholesaler's business.

65 (14) "Stamp" or "meter impression" means any cigarette stamp or any meter or ink
66 impression or other indicia authorized by the Tax Commissioner to serve as a stamp and shall be
67 of the design and color as prescribed by the Tax Commissioner.

68 (15) "Stamped cigarettes" means that the stamp or meter impression, as required by this

69 article, has been affixed to the bottom of the package of cigarettes.

70 (16) "Subjobber" or "subjobber dealer" includes any person who purchases stamped
71 cigarettes or tax-paid tobacco products from a wholesaler or from any other person who
72 purchases from the manufacturer or importer and who purchases the tax-paid tobacco products
73 solely for the purpose of bona fide resale to retail dealers.

74 (17) "Tax-not-paid tobacco product" means a tobacco product upon which the tax imposed
75 by this article has not been paid.

76 (18) "Tax-paid tobacco products" means a tobacco product upon which the tax imposed by
77 this article has been paid.

78 (19) "Tobacco product" includes cigarettes and any other tobacco product.

79 (20) "Transportation company" means a person operating or supplying to common
80 carriers, cars, boats or other vehicles for the transportation or accommodation of passengers and
81 engaged in the sale of a tobacco product at retail.

82 (21) "Transporter" means a person importing or transporting into this state a tobacco
83 product obtained from a source located outside this state or transporting within this state tobacco
84 products belonging to another person.

85 (22) "Unstamped cigarettes" means that the stamp or impression as required by this article
86 has not been affixed to the bottom of the package of cigarettes.

87 (23) "Vending machine operator" means any person operating one or more vending
88 machines for the sale of tobacco products. The sale of tobacco products through a vending
89 machine will be construed as sales at retail and subjects the vending machine operator to this
90 article and rules pertaining to retail dealers.

91 Whenever any tobacco products vending machine operator purchases tax-not-paid
92 tobacco products directly from the manufacturer or any other person, the vending machine
93 operator shall be considered to be a wholesaler and is liable for payment of the excise tax imposed
94 by this article and the affixing of the required stamps.

95 (24) "Wholesale price" means the gross invoice price, including all federal excise taxes, at
96 which the manufacturer of the tobacco product sells the tobacco product to unaffiliated
97 distributors, excluding all trade discounts and other reductions in the manufacturer's price. If the
98 taxpayer buys from other than a manufacturer, "wholesale price" means the gross invoice price,
99 including all federal excise taxes and excluding all trade discounts and other similar reductions in
100 price.

101 (25) "Wholesaler" or "wholesale dealer" includes any person in this state who purchases
102 tax-not-paid tobacco products directly from the manufacturer, or such other seller as may be
103 approved by the Tax Commissioner. Any distributor, dealer, subjobber, subjobber dealer, retailer or
104 any other person that imports or transports tax-not-paid tobacco products into this state, or that
105 causes tax-not-paid tobacco products to be imported or transported into this state is a wholesaler
106 liable for the tax imposed under this article and, in the case of cigarettes purchased, is liable for
107 affixing tax indicia in accordance with the requirements of this article. No wholesaler or other
108 person may purchase tax-not-paid tobacco products from any seller not approved by the Tax
109 Commissioner.

CHAPTER 16. PUBLIC HEALTH.

<u>ARTICLE</u>	<u>4C.</u>	<u>EMERGENCY</u>	<u>MEDICAL</u>	<u>SERVICES</u>	<u>ACT.</u>
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§16-4C-27. Levy of user fee; ratio; dedication of proceeds.

1 (a) User fee on cigarettes. — For the purpose of providing revenue for emergency medical
2 service agencies, a user fee is levied and imposed on sales of cigarettes: *Provided, That the*
3 county seeking to impose the user fee currently has provided emergency medical services as
4 defined in §16-4C-3(f) of this code continuously, in the past 12 months, on a county-wide basis and
5 has an operational emergency medical services levy: *Provided, however, That funds collected*
6 pursuant to this article shall only be used to fund emergency medical services in the county.

7 (b) User fee on rate on cigarettes. —On and after July 1, 2025, the user fee levied and
8 imposed on the sale of cigarettes is \$1.00 on each 20 cigarettes or in like ratio on any part thereof:
9 Provided, That the conditions in subsection (a) are met. Only one sale of the same article shall be
10 used in computing the amount of user fee due under this subsection.

§16-4C-28. Creation of fund emergency medical fund.

1 There is hereby created in the State Treasury a special revenue fund designated and
2 known as the Emergency Medical Service Agency Fund. The fund is established to support the
3 provision of emergency medical services in the state. The funds in the account consist of moneys
4 appropriated by the legislature pursuant to a user fee created pursuant to §16-4C-27 of this code
5 and shall only be expended for the purposes set forth in §16-4C-27 of this code. Any balance,
6 including accrued interest in the emergency medical service agency fund shall remain in the fund
7 and be expended as provided in this section.

NOTE: The purpose of this bill is to levy a \$1 user fee on cigarettes; provide the user fee be directed to support Emergency Medical Services; and create a special revenue fund to receive funds from the created user fee.

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