

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 521

FISCAL
NOTE

BY SENATORS HALL, BLAIR, PREZIOSO, KESSLER,
FACEMIRE, BOLEY, ROMANO, BEACH, TRUMP, PLYMALE,
WILLIAMS, MILLER AND GAUNCH

[Introduced February 5, 2016;

Referred to the Committee on Government Organization;
and then to the Committee on Finance.]

1 A BILL to repeal §7-18-5 of the Code of West Virginia, 1931, as amended; and to amend and
 2 reenact §7-18-1 and §7-18-3 of said code, all relating to eliminating exemption from hotel
 3 occupancy taxes on rental of hotel and motel rooms for thirty or more consecutive days;
 4 redefining certain terms; and exempting hotel rooms occupied by government officials on
 5 official business under certain circumstances.

Be it enacted by the Legislature of West Virginia:

1 That §7-18-5 of the Code of West Virginia, 1931, as amended, be repealed; and that §7-
 2 18-1 and §7-18-3 of said code be amended and reenacted, all to read as follows:

ARTICLE 18. HOTEL OCCUPANCY TAX.

§7-18-1. Hotel occupancy tax.

1 (a) *Authority to impose.* -- On and after July 1, 1985, any county or municipality may
 2 impose and collect a privilege tax upon the occupancy of hotel rooms located within its taxing
 3 jurisdiction. ~~Such~~ The tax shall be imposed and collected as provided in this article.

4 (b) *Municipal tax.* -- A municipal hotel tax shall be imposed by ordinance enacted by the
 5 governing body of the municipality, in accordance with the provisions of article eleven, chapter
 6 eight of this code. ~~Such~~ The tax shall be imposed uniformly throughout the municipality; and the
 7 tax shall apply to all hotels located within the corporate limits of the municipality, including hotels
 8 owned by the state or by any political subdivision of this state.

9 (c) *County tax.* -- A county hotel tax shall be imposed by order of the county commission
 10 duly entered of record. ~~Such~~ The tax shall be imposed uniformly throughout the county: *Provided,*
 11 That no county commission may impose its tax on hotels located within the corporate limits of any
 12 municipality situated, in whole or in part, within the county: *Provided, however,* That the tax
 13 collected by a hotel owned by a municipality but located outside the corporate limits of ~~such~~ the
 14 municipality pursuant to this article shall be remitted to the municipality owning ~~such~~ the hotel for
 15 expenditure pursuant to the provisions of section fourteen of this article. The tax shall apply to all
 16 hotels located outside the corporate limits of a municipality, including hotels owned by the state

17 or any political subdivision of this state.

18 (d) The tax shall be imposed on the consumer and shall be collected by the hotel operator
19 as part of the consideration paid for the occupancy of a hotel room: *Provided*, That the tax ~~shall~~
20 may not be imposed on ~~any consumer occupying a hotel room for thirty or more consecutive days~~
21 federal or state officials occupying a hotel room for official federal or state business: *Provided*,
22 however, That a room paid for by a federal official for which reimbursement is made is subject to
23 the Hotel Occupancy Tax under this article.

§7-18-3. Definitions.

1 For the purposes of this article:

2 (a) "Consideration paid" or "consideration" means the amount received in money, credits,
3 property or other consideration for or in exchange for the right to occupy a hotel room as herein
4 defined.

5 (b) "Consumer" means a person who pays the consideration for the use or occupancy of
6 a hotel room. The term "consumer" ~~shall~~ does not ~~be construed to~~ mean the government of the
7 United States of America, its agencies or instrumentalities, or the government of the State of West
8 Virginia or political subdivisions thereof.

9 (c) "Hotel" means any facility, building or buildings, publicly or privately owned (including
10 a facility located in a state, county or municipal park), in which the public may, for a consideration,
11 obtain sleeping accommodations. The term ~~shall include~~ includes but is not ~~be~~ limited to, boarding
12 houses, hotels, motels, inns, courts, condominiums, lodges, cabins and tourist homes. The term
13 "hotel" ~~shall include~~ includes state, county and city parks offering accommodations as herein set
14 forth. The term "hotel" ~~shall not be construed to~~ does not mean ~~any~~ a hospital, sanitarium,
15 extended care facility, nursing home or university or college housing unit, or any facility providing
16 fewer than three in private homes, not exceeding a total of ten days in a calendar year, nor any
17 tent, trailer or camper campsites: *Provided*, That where a university or college housing unit
18 provides sleeping accommodations for the general nonstudent public for a consideration, the term

19 "hotel" ~~shall~~ does, if otherwise applicable, apply to ~~such~~ those accommodations for the purposes
20 of this tax.

21 (d) "Hotel operator" means the person who is proprietor of a hotel, whether in the capacity
22 of owner, lessee, mortgagee in possession, licensee, trustee in possession, trustee in bankruptcy,
23 receiver, executor or in any other capacity. Where the hotel operator performs his or her functions
24 through a managing agent of any type or character other than an employee, the managing agent
25 ~~shall also be deemed~~ is a hotel operator for the purposes of this article and ~~shall have~~ has the
26 same duties and liabilities as his or her principal. Compliance with the provisions of this article by
27 either the principal or the managing agent ~~shall~~ is, however, ~~be~~ considered to be compliance by
28 both.

29 (e) "Hotel room" means any room or suite of rooms or other facility affording sleeping
30 accommodations to the general public and situated within a hotel. The term "hotel room" ~~shall not~~
31 ~~be construed to mean~~ does not include:

32 (1) A banquet room, meeting room or any other room not primarily used for, or in
33 conjunction with, sleeping accommodations; or

34 (2) Sleeping accommodations rented on a month-to-month basis or other rental
35 arrangement for thirty days or longer at the inception at a boarding house, condominium, cabin,
36 tourist home, apartment or home.

37 (f) "Person" means any individual, firm, partnership, joint venture, association, syndicate,
38 social club, fraternal organization, joint stock company, receiver, corporation, guardian, trust,
39 business trust, trustee, committee, estate, executor, administrator or any other group or
40 combination acting as a unit.

41 (g) "State park" means any state-owned facility which is part of this state's park and
42 recreation system established pursuant to this code. For purposes of this article, any recreational
43 facility otherwise qualifying as a "hotel" and situated within a state park ~~shall be deemed~~ is
44 considered to be solely within the county in which the building or buildings comprising ~~said~~ the

45 facility are physically situated, notwithstanding the fact that the state park within which ~~said~~ the
46 facility is located may lie within the jurisdiction of more than one county.

47 (h) "Tax," "taxes" or "this tax" means the hotel occupancy tax authorized by this article.

48 (i) "Taxing authority" means a municipality or county levying or imposing the tax authorized
49 by this article.

50 (j) "Taxpayer" means any person liable for the tax authorized by this article.

NOTE: The purpose of this bill is to allow county commissions and municipalities to impose their hotel occupancy taxes on hotel and motel rooms regardless of the length of time for which the hotel or motel room is rented. It also provides that the tax is not imposed on rooms rented to government officials on official business who are not reimbursed for the stay.

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