

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Engrossed

Senate Bill 705

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[Originating in the Committee on Finance; Reported
on February 29, 2016]

1 A BILL to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended, relating
2 to reducing the severance tax on coal to three percent over two years; and specifying
3 effective dates.

Be it enacted by the Legislature of West Virginia:

1 That §11-13A-3 and §11-13A-3a of the Code of West Virginia, 1931, as amended, be
2 amended and reenacted, all to read as follows:

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

**§11-13A-3. Imposition of tax or privilege of severing coal, limestone or sandstone, or
furnishing certain health care services, effective dates therefor; reduction of
severance rate for coal mined by underground methods based on seam thickness**

1 (a) *Imposition of tax.* — Upon every person exercising the privilege of engaging or
2 continuing within this state in the business of severing, extracting, reducing to possession and
3 producing for sale, profit or commercial use coal, limestone or sandstone, or in the business of
4 furnishing certain health care services, there is hereby levied and shall be collected from every
5 person exercising such privilege an annual privilege tax.

6 (b) *Rate and measure of tax.* — ~~The Beginning July 1, 2017, the~~ tax imposed in subsection
7 (a) of this section shall be ~~five~~ four percent of the gross value of the natural resource produced
8 and beginning July 1, 2018, the tax imposed in subsection (a) of this section shall be three percent
9 of the gross value of the natural resource produced ~~or the health care service provided~~, as shown
10 by the gross income derived from the sale or furnishing thereof by the producer ~~or the provider of~~
11 ~~the health care service~~, except as otherwise provided in this article. For health care services, the
12 tax imposed in subsection (a) of this section shall be five percent of the gross value of the health
13 care service provided, as shown by the gross income derived from the sale or furnishing thereof
14 by the provider of the health care service. In the case of coal, ~~this five percent~~ the rate of tax
15 includes the thirty-five one hundredths of one percent additional severance tax on coal imposed
16 by the state for the benefit of counties and municipalities as provided in section six of this article.

17 (c) *“Certain health care services” defined.* — For purposes of this section, the term “certain
18 health care services” means, and is limited to, behavioral health services.

19 (d) *Tax in addition to other taxes.* — The tax imposed by this section shall apply to all
20 persons severing or processing, or both severing and processing, in this state natural resources
21 enumerated in subsection (a) of this section and to all persons providing certain health care
22 services in this state as enumerated in subsection (c) of this section and shall be in addition to all
23 other taxes imposed by law.

24 (e) *Effective date.* — This section, as amended in the year 1993, shall apply to gross
25 proceeds derived after May 31 of such year. The language of this section, as in effect on January
26 1, of such year, shall apply to gross proceeds derived prior to June 1 of such year and, with
27 respect to such gross proceeds, shall be fully and completely preserved.

28 (f) *Reduction of severance tax rate.* — For tax years beginning after the effective date of
29 this subsection, any person exercising the privilege of engaging within this state in the business
30 of severing coal for the purposes provided in subsection (a) of this section shall be allowed a
31 reduced rate of tax on coal mined by underground methods in accordance with the following:

32 (i) For coal mined by underground methods from seams with an average thickness of
33 thirty-seven inches to forty-five inches, the tax imposed in subsection (a) of this section shall be
34 two percent of the gross value of the coal produced. For coal mined by underground methods
35 from seams with an average thickness of less than thirty-seven inches, the tax imposed in
36 subsection (a) of this section shall be one percent of the gross value of the coal produced. Gross
37 value is determined from the sale of the mined coal by the producer. This rate of tax includes the
38 thirty-five one hundredths of one percent additional severance tax imposed by the state for the
39 benefit of counties and municipalities as provided in section six of this article.

40 (ii) This reduced rate of tax applies to any new underground mine producing coal after the
41 effective date of this subsection, from seams of less than forty-five inches in average thickness
42 or any existing mine that has not produced coal from seams forty-five inches or less in thickness

43 in the one hundred eighty days immediately preceding the effective date of this subsection.

44 (iii) The seam thickness shall be based on the weighted average isopach mapping of
45 actual coal thickness by mine as certified by a professional engineer.

**§11-13A-3a. Imposition of tax on privilege of severing natural gas or oil; Tax Commissioner
to develop a uniform reporting form.**

46 (a) *Imposition of tax.* — For the privilege of engaging or continuing within this state in the
47 business of severing natural gas or oil for sale, profit or commercial use, there is hereby levied
48 and shall be collected from every person exercising such privilege an annual privilege tax:
49 *Provided,* That effective for all taxable periods beginning on or after January 1, 2000, there is an
50 exemption from the imposition of the tax provided in this article on the following: (1) Free natural
51 gas provided to any surface owner; (2) natural gas produced from any well which produced an
52 average of less than five thousand cubic feet of natural gas per day during the calendar year
53 immediately preceding a given taxable period; (3) oil produced from any oil well which produced
54 an average of less than one-half barrel of oil per day during the calendar year immediately
55 preceding a given taxable period; and (4) for a maximum period of ten years, all natural gas or oil
56 produced from any well which has not produced marketable quantities of natural gas or oil for five
57 consecutive years immediately preceding the year in which a well is placed back into production
58 and thereafter produces marketable quantities of natural gas or oil.

59 (b) *Rate and measure of tax.* — The tax imposed in subsection (a) of this section shall be
60 five percent of the gross value of the natural gas or oil produced, as shown by the gross proceeds
61 derived from the sale thereof by the producer, except as otherwise provided in this article;
62 *Provided,* That if the coal severance tax imposed in section three of this article is changed to
63 some amount other than five percent, then the severance tax imposed by this subsection shall
64 adjust on the same dates and to the same percentages such that the two severance taxes
65 continue to be equivalent percentages of the gross value of the natural resource produced.

66 (c) *Tax in addition to other taxes.* — The tax imposed by this section shall apply to all

67 persons severing gas or oil in this state, and shall be in addition to all other taxes imposed by law.

68 (d)(1) The Legislature finds that in addition to the production reports and financial records
69 which must be filed by oil and gas producers with the State Tax Commissioner in order to comply
70 with this section, oil and gas producers are required to file other production reports with other
71 agencies, including, but not limited to, the office of oil and gas, the Public Service Commission
72 and county assessors. The reports required to be filed are largely duplicative, the compiling of the
73 information in different formats is unnecessarily time consuming and costly, and the filing of one
74 report or the sharing of information by agencies of government would reduce the cost of
75 compliance for oil and gas producers.

76 (2) On or before July 1, 2003, the Tax Commissioner shall design a common form that
77 may be used for each of the reports regarding production that are required to be filed by oil and
78 gas producers, which form shall readily permit a filing without financial information when such
79 information is unnecessary. The commissioner shall also design such forms so as to permit filings
80 in different formats, including, but not limited to, electronic formats.

81 (3) Effective July 1, 2006, this subsection shall have no force or effect.