

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 476**

BY SENATOR TARR

[Originating in the Committee on Energy, Industry,  
and Mining; reported on February 09, 2022]

1 A BILL to amend and reenact §11-12B-3 of the Code of West Virginia, 1931, as amended, relating  
2 to the imposition of the minimum severance tax on coal; and making technical corrections  
3 to the code.

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

**ARTICLE 12B. MINIMUM SEVERANCE TAX ON COAL.**

**§11-12B-3. Imposition of tax, credit.**

1 (a) *Imposition of tax.* – Upon every person exercising the privilege of engaging within this  
2 state in severing, extracting, reducing to possession, or producing coal for sale, profit, or  
3 commercial use, there is hereby imposed an annual minimum severance tax equal to 50¢ cents  
4 per ton of coal produced by the taxpayer for sale, profit or commercial use during the taxable year:  
5 *Provided, That for taxable years ending after May 31, 1993, the minimum severance tax imposed*  
6 *on coal produced by the taxpayer for sale, profit, or commercial use during such taxable year shall*  
7 *be 75¢ cents per ton, with such rate increase to apply only to tons of coal produced after May 31,*  
8 *1993: *Provided, however, That for taxable years ending after December 31, 1999, the minimum**  
9 *severance tax on coal may not be imposed on any ton of coal mined by underground methods*  
10 *from seams with an average thickness of 45 inches or less produced on or after April 1, 2000, on*  
11 *which the severance tax is imposed by ~~the provisions of subsection (f), section three, article~~*  
12 *~~thirteen-a of this chapter~~ §11-13A-3 of this code.*

13 (b) *Credit against ~~article thirteen-a tax~~ the severance tax imposed under §11-13A-1 et seq.*  
14 *of this code – A person who pays the minimum severance tax imposed by this article shall be*  
15 *allowed a credit against the severance tax imposed on the privilege of producing coal by ~~section~~*  
16 *~~three, article thirteen-a of this chapter~~ §11-13A-3 of this code, but not including the additional*  
17 *severance tax on coal imposed by ~~section six of article thirteen-a of this chapter~~ §11-13A-6 of this*  
18 *code or, for taxable years ending after December 31, 1999, the severance tax imposed by the*  
19 *provisions of ~~subsection (f), section three, article thirteen-a of this chapter~~ §11-13A-3 of this code*  
20 *on coal mined by underground methods from seams with an average thickness of 45 inches or*

21 less produced on or after April 1, 2000. The amount of credit allowed shall be equal to the liability  
22 of the taxpayer for the taxable year for payment of the minimum severance tax on coal imposed  
23 by this article: *Provided*, That the amount of credit allowed by this section may not exceed the  
24 severance tax liability of the taxpayer for the taxable year determined under ~~section three of that~~  
25 ~~article §11-13A-3 of this code~~ exclusive of the additional tax on coal imposed by ~~section six of~~  
26 ~~that article §11-13A-6 of this code~~ and, for taxable years ending after December 31, 1999, of the  
27 severance tax imposed by ~~the provisions of subsection (f), section three, article thirteen-a of this~~  
28 ~~chapter §11-13A-3 of this code~~ on coal mined by underground methods from seams with an  
29 average thickness of 45 inches or less produced on or after April 1, 2000, after application of all  
30 credits to which the taxpayer may be entitled except any credit allowed pursuant to ~~chapter five-~~  
31 ~~e §5E-1-1 et seq.~~ of this code, any credit for installment payments of estimated tax paid pursuant  
32 to ~~section six of this article §11-12B-6 of this code~~ during the taxable year, and any credit for  
33 overpayment of ~~article thirteen-a tax~~ the severance tax imposed under §11-13A-1 et seq.  
34 Notwithstanding anything herein to the contrary, in no event may the credit allowed under ~~chapter~~  
35 ~~five-e of this code §5E-1-1 et seq. of this code~~ be allowed as a credit against the minimum  
36 severance tax imposed by this article.

NOTE: The purpose of this bill is correct cross references that exempt thin seam coal from the minimum severance tax.

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