WEST VIRGINIA CODE: §8-13-7

§8-13-7. Tax on purchases of intoxicating liquors in municipalities; private club fees.

(a) (1) Every municipality shall have plenary power and authority to levy and collect a tax upon all purchases within such municipality of intoxicating liquors from the Alcohol Beverage Control Commissioner, from any person licensed to sell wine at retail to the public under the provisions of article eight, chapter sixty of this code, or from distributors licensed to sell or distribute wine pursuant to said article: Provided, That no municipality shall have authority to levy or collect any such tax on the intoxicating liquors sold by or purchased from holders of a license issued under the provisions of article seven, chapter sixty of this code: Provided, however, That no municipality shall have authority to levy or collect any such tax on purchases within such municipality of intoxicating liquors or wine in the original sealed package for the purpose of resale in the original sealed package if the final purchase of such intoxicating liquors or wine is subject to the tax imposed under this section, under section nine-d, article three, chapter sixty of this code, or under section twenty-one, article three-a of said chapter. This section shall not be interpreted to authorize a purchase for resale exemption in contravention of section nine-a, article fifteen, chapter eleven of this code. The tax shall be levied upon the purchaser and shall be added to and collected with the price of purchase. The tax shall not exceed five percent of the purchase price.

(2) A copy of any ordinance imposing the tax authorized by this section shall be certified by the mayor of the municipality to the West Virginia Alcohol Beverage Control Commissioner and to the Tax Commissioner. The West Virginia Alcohol Beverage Control Commissioner by appropriate rules and regulations shall provide for the collection of such tax upon all purchases within such municipality of intoxicating liquors from the Alcohol Beverage Control Commissioner, from any person licensed to sell wine at retail pursuant to the provisions of article eight, chapter sixty of this code, or from distributors licensed to sell or distribute wine pursuant to said article, and for distribution thereof to the respective municipalities for which the same shall be collected. Such rules and regulations shall provide that all such taxes shall be deposited with the State Treasurer and distributed quarterly by the Treasurer upon warrants of the Auditor payable to the municipality.

(3) Every municipality shall have plenary power and authority to levy and collect a fee from any private club licensee whose premises are situate therein as authorized in section seven, article seven, chapter sixty of this code.

(b) For purposes of this section:

(1) “Original sealed package” means an original package, as defined in this article, bearing an unbroken seal, as defined in this article. For purposes of this article, the term “original sealed package” does not mean or include a case, shipping box, carton, bottle caddy, cargo container, or any other packaging or container that is not in immediate physical contact with

its liquid contents and which is not a “container” as defined in this article;

(2) “Original package” means that container, as defined in this article, into which the manufacturer or bottler of a given liquor or wine first placed a given wine or liquor immediately after it was produced, which is intended by the manufacturer or bottler to be the container in which such wine or liquor is to be sold;

(3) “Seal” means a piece of wax, foil, metal, plastic or paper affixed to a container of liquor or wine in such a way that the seal must be broken when the container is opened. The purpose of a seal is to show evidence of opening, tampering or alteration of the container. A seal bears some combination of embossed, printed, engraved or impressed emblems, figures, symbols, words, trademarks, stamps, medallions, marks, or letters for attestation or evidence of authenticity. A seal is typically affixed to a package or container by the manufacturer or bottler of a given wine or liquor. The term “seal” may include a seal provided by or specified by this state and required by law to be affixed to a container of liquor or wine; and

(4) “Container” means a bottle, boxed wine box (including the liner, bag or bladder thereof), cask, can, jug or other holder of liquor or wine, which is in immediate physical contact with the liquid contents, and which is the only means by which its liquid contents are prevented from flowing or leaking out of the holder, and which is intended to be the container in which such wine or liquor is to be sold to final consumers.

WV Legislature