

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1951

ENROLLED

SENATE BILL NO. 290

(By Mr. Amos)

PASSED March 10, 1951

In Effect July 1, 1951 Passage



290

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(By MR. AMOS)

[Passed March 10, 1951; in effect July 1, 1951.]

AN ACT to amend and reenact section two, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to consumers sales tax.

Be it enacted by the Legislature of West Virginia:

That section two, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 2. *Definitions.*—For the purpose of this article:

- 2 (1) “Persons” shall mean any person, firm, partner-
3 ship, association, corporation, guardian, or committee;
4 (2) “Tax commissioner” shall mean the state tax com-
5 missioner;

6 (3) "Gross proceeds" shall mean the amount received
7 in money, credits, property or other consideration from
8 sales at retail within this state, without deduction on
9 account of the cost of the property sold, amounts paid
10 for interest or discounts or other expenses whatsoever.
11 Losses shall not be deducted, but any credit or refund
12 made for goods returned may be deducted;

13 (4) "Sales at retail" shall mean any transaction by
14 which the ownership of tangible personal property is
15 transferred for a consideration, when the transfer is made
16 in the ordinary course of the transferor's business and
17 is made to the transferee for consumption or use or any
18 other purpose, except resale in its original form without
19 change or processing. "Sale at retail" includes condi-
20 tional sales and transactions under whatever name
21 whereby title is ultimately to pass, but presently retained
22 for security. "Sale at retail" shall not include an isolated
23 transaction in which any tangible personal property is
24 sold, transferred, offered for sale, or delivered by the
25 owner thereof, or by his representative for the owner's
26 account, such sales, transfer, offer for sale or delivery

27 not being made in the ordinary course of repeated and
28 successive transactions of a like character by such owner
29 or on his account by such representative;

30 (5) "Retail dealer" shall mean a person engaged in
31 the business of sale at retail, or one who furnishes serv-
32 ices taxed by this article, in this state, to the ultimate
33 consumer;

34 (6) "Wholesale dealer" shall mean a person engaged
35 in this state in the business of selling tangible personal
36 property or furnishing services to retail dealers for resale
37 only; but such person, when sales are made for personal
38 consumption or use, shall, with respect to such sales, be
39 classified as a "retail dealer"; and the fact that the pur-
40 chaser has a store license shall not exempt him from
41 paying the tax on the retail value of the goods or services
42 bought unless he is a bona fide retail dealer of such goods
43 or services. The term "wholesale dealer" shall also in-
44 clude any person engaged in this state in the business of
45 selling machinery, supplies and materials or of furnishing
46 services to churches, incorporated charitable organiza-
47 tions, contractors or to persons engaged in the business

48 of manufacturing, transportation, transmission, communi-
49 cation, or in the production of natural resources in this
50 state: *Provided, however,* That this exemption shall not
51 apply to fraternal or social organizations, nor to charit-
52 able organizations which charge for services rendered;

53 (7) "Ultimate consumer" shall mean a person who
54 uses or consumes services or personal property for the
55 immediate satisfaction of human desires or requirements,
56 distinguished from services and goods, used or consumed
57 in connection with the conduct of the business of pro-
58 ducing or selling personal property or dispensing a serv-
59 ice taxable under this article;

60 (8) "Business" shall include all activities engaged in
61 or caused to be engaged in with the object of gain or
62 economic benefit, direct or indirect;

63 (9) "Tax" shall include all taxes, interest or penalties
64 levied hereunder;

65 (10) "Purchaser" shall mean a person who purchases
66 tangible personal property or a service taxed by this
67 article;

68 (11) "Service, or selected service" shall include all

69 non-professional activities engaged in for other persons
70 for a consideration, which involve the rendering of a
71 service as distinguished from the sale of tangible prop-
72 erty, but shall not include personal services or the serv-
73 ices rendered by an employee to his employer or any
74 service rendered for resale.

75 (12) "Personal service" shall include those:

76 (a) Compensated by the payment of wages in the
77 ordinary course of employment;

78 (b) Rendered to the person of an individual without,
79 at the same time, selling tangible personal property or
80 the use of such property, such as nursing, barbering,
81 shoe shining, manicuring, and similar services;

82 (13) "Taxpayer" shall mean a retail dealer.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Robert C. Boyd
Chairman Senate Committee

James W. Loop
Chairman House Committee

Originated in the Senate.

Takes effect July 1, 1951 passage.

Thomas Neenan
Clerk of the Senate

R. Cliff
Clerk of the House of Delegates

Augustine Shuster
President of the Senate

W. E. Flannery
Speaker House of Delegates

The within approved this the 16th
day of March, 1951.

Chas. L. Patterson
Governor.



FILED IN THE OFFICE OF THE SECRETARY OF STATE

of West Virginia **MAR 16 1951**
D. PITT O'BRIEN,
SECRETARY OF STATE