WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1951

ENROLLED

SENATE BILL NO 290

(By Mr. James)

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, partnership, association, corporation, guardian, or committee;

3 (2) “Tax commissioner” shall mean the state tax commissioner;
(3) “Gross proceeds” shall mean the amount received in money, credits, property or other consideration from sales at retail within this state, without deduction on account of the cost of the property sold, amounts paid for interest or discounts or other expenses whatsoever. Losses shall not be deducted, but any credit or refund made for goods returned may be deducted;

(4) “Sales at retail” shall mean any transaction by which the ownership of tangible personal property is transferred for a consideration, when the transfer is made in the ordinary course of the transferor’s business and is made to the transferee for consumption or use or any other purpose, except resale in its original form without change or processing. “Sale at retail” includes conditional sales and transactions under whatever name whereby title is ultimately to pass, but presently retained for security. “Sale at retail” shall not include an isolated transaction in which any tangible personal property is sold, transferred, offered for sale, or delivered by the owner thereof, or by his representative for the owner’s account, such sales, transfer, offer for sale or delivery
not being made in the ordinary course of repeated and
successive transactions of a like character by such owner
or on his account by such representative;

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

(6) "Wholesale dealer" shall mean a person engaged
in this state in the business of selling tangible personal
property or furnishing services to retail dealers for resale
only; but such person, when sales are made for personal
consumption or use, shall, with respect to such sales, be
classified as a "retail dealer"; and the fact that the pur-
chaser has a store license shall not exempt him from
paying the tax on the retail value of the goods or services
bought unless he is a bona fide retail dealer of such goods
or services. The term "wholesale dealer" shall also in-
clude any person engaged in this state in the business of
selling machinery, supplies and materials or of furnishing
services to churches, incorporated charitable organiza-
tions, contractors or to persons engaged in the business
of manufacturing, transportation, transmission, communication, or in the production of natural resources in this state: Provided, however, That this exemption shall not apply to fraternal or social organizations, nor to charitable organizations which charge for services rendered;

(7) "Ultimate consumer" shall mean a person who uses or consumes services or personal property for the immediate satisfaction of human desires or requirements, distinguished from services and goods, used or consumed in connection with the conduct of the business of producing or selling personal property or dispensing a service taxable under this article;

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

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

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

(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.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

Takes effect July 1, 1951, passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the day of March, 1951.

Governor.