

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1961



ENROLLED

HOUSE BILL No. *86*.....

(By Mr. *Protherton*)



PASSED *March 8th* 1961

In Effect *July 1st 1961* Passage

Filed in Office of the Secretary of State  
of West Virginia **MAR 16 1961**  
**JOE F. BURDETT**  
SECRETARY OF STATE

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# House Bill No. 86

(By MR. BROTHERTON)

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[Passed March 8, 1961; in effect July 1, 1961.]

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AN ACT to amend article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto two new sections, designated sections six-a and six-b, imposing a license tax on the sale of manufactured tobacco by wholesale dealers; defining certain words for the purposes of the sections; providing appropriation to the state tax commissioner for the enforcement of the provisions of the cigarette sales act with respect to wholesalers and retailers of tobacco.

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

That article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto two new sections, designated sections six-a and six-b, to read as follows:

Section 6-a. *Wholesale Dealers in Tobacco; Definitions.*

2 —When used in this section the following words, terms,  
3 and phrases and any variations thereof required by the  
4 context, shall be the meaning ascribed to them in this  
5 section, except where the context indicates a different  
6 meaning.

7 “Cigarettes” shall mean any roll for smoking made  
8 wholly or in part of tobacco, irrespective of size or shape  
9 and whether or not such tobacco is flavored, adulterated  
10 or mixed with any other ingredient, the wrapper or cover  
11 of which is made of paper or any other substance or  
12 material except tobacco.

13 “Person” shall mean and include any individual, firm,  
14 association, company, partnership, corporation, joint stock  
15 company, club, agency, syndicate, municipal corporation  
16 or other political sub-division of this state, trust, receiver,  
17 trustee, fiduciary and conservator.

18 “Wholesaler” shall include any person who:

19 (a) Purchases cigarettes directly from the manufac-  
20 turer; or

21 (b) Purchases cigarettes from any other person who  
22 purchases from the manufacturer and who acquires such  
23 cigarettes solely for the purpose of bona fide resale to  
24 retail dealers or to other persons for the purposes of  
25 resale only; or

26 (c) Services retail outlets by the maintenance of an  
27 established place of business for the purchase of cigar-  
28 ettes, including, but not limited to, the maintenance of  
29 warehousing facilities for the storage and distribution of  
30 cigarettes.

31 Nothing contained herein shall prevent a person from  
32 qualifying in different capacities as both a "wholesaler"  
33 and "retailer" under the applicable provisions of this  
34 article.

35 "Commissioner" means the state tax commissioner, and  
36 where the meaning of the context requires, all deputies  
37 and employees duly authorized by him.

38 "Sale at wholesale" shall mean and include any bona  
39 fide transfer of title to cigarettes for a valuable considera-  
40 tion, made in the ordinary course of trade or in the usual

41 conduct of the wholesaler's business, to a retailer for the  
42 purpose of resale.

43 After the effective date of this section, no person shall  
44 engage in, or conduct the business of purchasing, selling,  
45 consigning or distributing tobacco, as defined herein, in  
46 this state without having first obtained the appropriate  
47 license for that purpose as prescribed by this section. The  
48 annual license fee as a wholesale dealer to sell tobacco  
49 as defined herein shall be divided into three classes, as  
50 follows: (1) Class A—all dealers who sell up to seven  
51 hundred fifty thousand packages of cigarettes, one hun-  
52 dred dollars; (2) Class B—all dealers who sell from  
53 seven hundred fifty thousand packages of cigarettes to  
54 one million five hundred thousand packages, two hun-  
55 dred dollars; (3) Class C—all dealers who sell more than  
56 one million five hundred thousand packages of cigarettes,  
57 three hundred fifty dollars.

Sec. 6-b. *Amount Allowed for Administration*—For the  
2 purpose of providing revenue for the enforcement of the  
3 cigarette sales act with respect to wholesalers and re-  
4 tailers of tobacco, from the moneys derived from licenses

5 issued under the provisions of this section there is hereby  
6 appropriated to the state tax commissioner, the sum of  
7 twenty thousand dollars per annum which must be used  
8 for the enforcement of the provisions of the cigarette  
9 sales act.

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

*Harold Davis, Jr.*  
Chairman Senate Committee

*Mrs. H. H. Withrow*  
Chairman House Committee

Originated in the House.

Takes effect *July 1st, 1961* passage.

*Thomas M. Myers*  
Clerk of the Senate

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Clerk of the House of Delegates

*Harvard Carson*  
President of the Senate

*Julius W. Singleton Jr.*  
Speaker House of Delegates

The within *approved* this the *16<sup>th</sup>*  
day of *March*, 1961.

*Wm. Baum*  
Governor

Filed in Office of the Secretary of State  
of West Virginia *MAR 16 1961*  
JOE F. BURDETT  
SECRETARY OF STATE