WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1961

ENROLLED

HOUSE BILL No. 86

(By Mr. Rotheator)

PASSED March 8th, 1961
In Effect July 1st, 1961

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

House Bill No. 86

(By Mr. Brotherton)

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

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.

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

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

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

“Wholesaler” shall include any person who:

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

c (c) Services retail outlets by the maintenance of an established place of business for the purchase of cigarettes, including, but not limited to, the maintenance of warehousing facilities for the storage and distribution of cigarettes.

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

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

"Sale at wholesale" shall mean and include any bona fide transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or in the usual
conduct of the wholesaler's business, to a retailer for the purpose of resale.

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

Sec. 6-b. Amount Allowed for Administration—For the purpose of providing revenue for the enforcement of the cigarette sales act with respect to wholesalers and retailers of tobacco, from the moneys derived from licenses
issued under the provisions of this section there is hereby appropriated to the state tax commissioner, the sum of twenty thousand dollars per annum which must be used for the enforcement of the provisions of the cigarette sales act.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect July 10th, 1961, upon passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 16th day of March, 1961.

Governor

Filed in Office of the Secretary of State of West Virginia MAR 16 1961

JCE F. BURDETT
SECRETARY OF STATE