WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1969

ENROLLED
SENATE BILL NO. 163
(BY MR. [signature, original sponsor])

PASSED ......................................................... 1969

In Effect .............................................. April 1, 1969

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 3-12-69

# 163
AN ACT to repeal section two-a, article fifteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections one and three of said article fifteen-a; to further amend said article fifteen-a by adding thereto a new section, designated section one-a, all relating to definitions of terms in and exemptions under the use tax law.

Be it enacted by the Legislature of West Virginia:

That section two-a, article fifteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections one and three of said
article fifteen-a be amended and reenacted; that said article fifteen-a be further amended by adding thereto a new section, designated section one-a, all to read as follows:

**ARTICLE 15A. USE TAX.**


1. The following words, terms, and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. (1) "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, or any other group or combination acting as a unit and the plural as well as the singular number.

1. (2) "Use" means and includes the exercise by any person of any right or power over tangible personal property incident to the ownership of that property or by any transaction in which possession of tangible personal property is acquired for a consideration, including any lease, rental or conditional sale of tangible personal property.
"Purchase" means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration.

"Purchase price" means the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise; provided that cash discounts allowed and taken on sales shall not be included.

"Tangible personal property" means tangible goods, wares, and merchandise when furnished or delivered within this state to consumers or users within this state.

"Retailer" means and includes every person engaged in the business of selling tangible personal property for use within the meaning of this article: Provided, however, That when in the opinion of the tax commissioner it is necessary for the efficient administration of this article to regard any salesmen, representatives, truckers, peddlers or canvassers as the agents of the dealers, distributors, supervisors, employers or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of
whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the tax commissioner may so regard them and may regard the dealers, distributors, supervisors, employers, or persons as retailers for purposes of this article.

(7) "Retailer maintaining a place of business in this state" or any like term shall mean and include any retailer having or maintaining within this state, directly or by a subsidiary, an office, distribution houses, sales house, warehouse, or other place of business, or any agent operating within this state under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent is located here permanently or temporarily, or whether such retailer or subsidiary is admitted to do business within this state pursuant to section seventy-nine, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one.

(8) The word "commissioner" means the state tax commissioner.
(9) The word "taxpayer" includes any person within the meaning of subsection one hereof, who is subject to a tax imposed by this article, whether acting for himself or as a fiduciary.

§11-15A-1a. Legislative findings.

1 The Legislature hereby finds and declares that it is the intent of the Legislature that the use tax imposed by the provisions of article fifteen-a and the consumers sales tax imposed by the provisions of article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be complementary laws and wherever possible be construed and applied to accomplish such intent as to the imposition, administration and collection of such taxes.


1 The use in this state of the following tangible personal property is hereby specifically exempted from the tax imposed by this article:

1. All articles of tangible personal property brought into the state of West Virginia by a nonresident individual thereof for his or her use or enjoyment while within the state.
2. Tangible personal property, the gross receipts from the sale of which are exempted from the retail sales tax by the terms of sections three-a and nine, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one.

3. Tangible personal property, the gross receipts from the sale of which are derived from the sale of machinery supplies and materials to contractors, or to persons engaged in the business of manufacturing, transportation, transmission, communication or in the production of natural resources in this state: Provided, That the exemptions granted in this subsection three are hereby suspended, nullified and made inoperative during the period from the first day of April, one thousand nine hundred sixty-nine to midnight of the thirty-first day of March, one thousand nine hundred seventy: Provided further, That after midnight of the thirty-first day of March, one thousand nine hundred seventy, the exemptions granted in this subsection three shall again be in full force and effect as if they had not been suspended, nullified and made inoperative as heretofore provided.
4. Tangible personal property, the gross receipts or the gross proceeds from the sale of which are required to be included in the measure of the tax imposed by article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one.

5. Tangible personal property the sale of which in this state is not subject to the West Virginia consumers sales tax.
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.

To take effect April 1, 1969.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 12th day of March, 1969.

Governor