

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1969

ENROLLED

Com. Sub. for
SENATE BILL NO. 163

(By Mr. *Carrigan, Original sponsor*)

PASSED March 4, 1969

In Effect April 1, 1969 ~~Passage~~

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE

THIS DATE 3-17-69

#163

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 163
(MR. CARRIGAN, *original sponsor*)

[Passed March 4, 1969; in effect April 1, 1969.]

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article fifteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections one and three of said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.

§11-15A-1. Definitions.

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

5 (1) "Person" includes any individual, firm, copart-
6 nership, joint adventure, association, corporation, estate,
7 trust, business trust, receiver, or any other group
8 or combination acting as a unit and the plural as well
9 as the singular number.

10 (2) "Use" means and includes the exercise by any
11 person of any right or power over tangible personal prop-
12 erty incident to the ownership of that property or by
13 any transaction in which possession of tangible personal
14 property is acquired for a consideration, including any
15 lease, rental or conditional sale of tangible personal
16 property.

17 (3) "Purchase" means any transfer, exchange or bar-
18 ter, conditional or otherwise, in any manner or by any
19 means whatsoever, for a consideration.

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

24 (5) "Tangible personal property" means tangible
25 goods, wares, and merchandise when furnished or deliv-
26 ered within this state to consumers or users within this
27 state.

28 (6) "Retailer" means and includes every person en-
29 gaged in the business of selling tangible personal prop-
30 erty for use within the meaning of this article: *Provided,*
31 *however,* That when in the opinion of the tax commis-
32 sioner it is necessary for the efficient administration of
33 this article to regard any salesmen, representatives, truck-
34 ers, peddlers or canvassers as the agents of the dealers,
35 distributors, supervisors, employers or persons under
36 whom they operate or from whom they obtain the tangi-
37 ble personal property sold by them, irrespective of

38 whether they are making sales on their own behalf or
39 on behalf of such dealers, distributors, supervisors, em-
40 ployers, or persons, the tax commissioner may so re-
41 gard them and may regard the dealers, distributors, su-
42 pervisors, employers, or persons as retailers for purposes
43 of this article.

44 (7) "Retailer maintaining a place of business in this
45 state" or any like term shall mean and include any re-
46 tailer having or maintaining within this state, directly
47 or by a subsidiary, an office, distribution houses, sales
48 house, warehouse, or other place of business, or any
49 agent operating within this state under the authority of
50 the retailer or its subsidiary, irrespective of whether
51 such place of business or agent is located here perma-
52 nently or temporarily, or whether such retailer or sub-
53 sidiary is admitted to do business within this state pur-
54 suant to section seventy-nine, article one, chapter thirty-
55 one of the code of West Virginia, one thousand nine hun-
56 dred thirty-one.

57 (8) The word "commissioner" means the state tax
58 commissioner.

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

§11-15A-1a. Legislative findings.

1 The Legislature hereby finds and declares that it is the
2 intent of the Legislature that the use tax imposed by the
3 provisions of article fifteen-a and the consumers sales tax
4 imposed by the provisions of article fifteen, chapter
5 eleven of the code of West Virginia, one thousand nine
6 hundred thirty-one, as amended, be complementary laws
7 and wherever possible be construed and applied to ac-
8 complish such intent as to the imposition, administra-
9 tion and collection of such taxes.

§11-15A-3. Exemptions.

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

4 1. All articles of tangible personal property brought
5 into the state of West Virginia by a nonresident individual
6 thereof for his or her use or enjoyment while within the
7 state.

8 2. Tangible personal property, the gross receipts from
9 the sale of which are exempted from the retail sales tax
10 by the terms of sections three-a and nine, article fifteen,
11 chapter eleven of the code of West Virginia, one thousand
12 nine hundred thirty-one.

13 3. Tangible personal property, the gross receipts from
14 the sale of which are derived from the sale of machinery,
15 supplies and materials to contractors, or to persons en-
16 gaged in the business of manufacturing, transportation,
17 transmission, communication or in the production of
18 natural resources in this state: *Provided*, That the exemp-
19 tions granted in this subsection three are hereby sus-
20 pended, nullified and made inoperative during the period
21 from the first day of April, one thousand nine hundred
22 sixty-nine to midnight of the thirty-first day of March,
23 one thousand nine hundred seventy: *Provided further*,
24 That after midnight of the thirty-first day of March, one
25 thousand nine hundred seventy, the exemptions granted
26 in this subsection three shall again be in full force and
27 effect as if they had not been suspended, nullified and
28 made inoperative as heretofore provided.

29 4. Tangible personal property, the gross receipts or
30 the gross proceeds from the sale of which are required
31 to be included in the measure of the tax imposed by
32 article fifteen, chapter eleven of the code of West Vir-
33 ginia, one thousand nine hundred thirty-one.

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

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

William Tompoe
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect April 1, 1969.

Howard Keyes
Clerk of the Senate

C. G. Blankenship
Clerk of the House of Delegates

Lloyd Jones
President of the Senate

Sam F. Branch
Speaker House of Delegates

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

Arch A. Shaare Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 3/8/69

Time 4:50 pm.

RECEIVED

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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA