

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1978



**ENROLLED**

*Committee Substitute for*  
**SENATE BILL NO. 147**

(By Mr. *Bertherton*, Mr. President)



PASSED March 7, 1978

In Effect April 1, 1978 ~~Passage~~



# ENROLLED

COMMITTEE SUBSTITUTE

FOR

## Senate Bill No. 147

(By MR. BROTHERTON, MR. PRESIDENT)

[Passed March 7, 1978; in effect April 1, 1978.]

AN ACT to amend and reenact section three, article thirteen-c, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the business and occupation tax credit for industrial expansion; permitting the credit to be taken only against the tax imposed on the activities of manufacturing, manufacturing for another, and the production or generation of electricity; and providing for applicability of section as amended.

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

That section three, article thirteen-c, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

### **ARTICLE 13C. BUSINESS AND OCCUPATION TAX CREDIT FOR INDUSTRIAL EXPANSION.**

#### **§11-13C-3. Amount of credit allowed industrial taxpayers.**

1 (a) There shall be allowed to industrial taxpayers as  
2 defined in section two of this article, a credit against busi-  
3 ness and occupation tax imposed by article thirteen of  
4 this chapter. The amount of credit shall be equal to ten  
5 percent of the cost of qualified investment made for  
6 industrial expansion as defined in section four of this  
7 article and shall be applied over a ten-year period to  
8 reduce the business and occupation tax imposed under  
9 sections two-b, two-h and two-m of article thirteen of  
10 this chapter at the rate of one tenth of the amount of  
11 such credit per taxable year, commencing with the tax-

12 able year that such qualified investment is first placed  
13 in service or use.

14 (b) Notwithstanding any provision herein to the con-  
15 trary, the annual credit allowance shall not reduce the  
16 business and occupation tax imposed by sections two-b,  
17 two-h and two-m of article thirteen of this chapter below  
18 fifty percent of the amount which would be imposed for  
19 such taxable year in the absence of this credit against  
20 tax computed before application of the annual exemp-  
21 tion allowed by section three of said article thirteen:  
22 *Provided*, That the tax imposed under section two-h of  
23 article thirteen shall not be reduced by more than fifty  
24 percent of the tax attributable to a privilege that is  
25 manufacturing for another and which privilege would  
26 be taxable under section two-b or two-m of article thir-  
27 teen of this chapter if title to the raw materials involved  
28 in the manufacturing process were vested in the tax-  
29 payer exercising the privilege taxable under section  
30 two-h of article thirteen of this chapter.

31 (c) No carry-over shall be allowed for the amount of  
32 any unused portion of any annual credit allowance, nor  
33 shall any credit be allowed against any tax liability for  
34 any year prior to the twenty-fifth day of July, one thou-  
35 sand nine hundred sixty-nine, by reason of an assessment  
36 issuing within any period after the effective date of this  
37 article, which assessment is, in whole or in part for any  
38 period prior to the twenty-fifth day of July, one thousand  
39 nine hundred sixty-nine.

40 (d) *Effective date.*—The provisions of this section, as  
41 amended, shall apply to all property purchased for in-  
42 dustrial expansion on or after the first day of April, one  
43 thousand nine hundred seventy-eight. Property pur-  
44 chased for industrial expansion shall be deemed to have  
45 been purchased prior to the first day of April, one thou-  
46 sand nine hundred seventy-eight, only if:

47 (1) The physical construction, reconstruction or erec-  
48 tion of the property was begun prior to said first day of  
49 April, or such property was constructed, reconstructed,  
50 erected, or acquired pursuant to a written contract exist-  
51 ing on or before the thirty-first day of March, one thou-

52 sand nine hundred seventy-eight, and limited to the  
53 provision of such contract as of such date, binding on  
54 the taxpayer;

55 (2) The machinery or equipment was owned by the  
56 taxpayer on or before the thirty-first day of March, one  
57 thousand nine hundred seventy-eight, or was acquired  
58 by the taxpayer pursuant to a binding purchase contract  
59 which was in effect on such date;

60 (3) In the case of leased property, there was a binding  
61 lease or contract to lease identifiable equipment in effect  
62 on or before the thirty-first day of March, one thousand  
63 nine hundred seventy-eight. As to property purchased  
64 for industrial expansion prior to the first day of April,  
65 one thousand nine hundred seventy-eight or qualified  
66 investments for industrial expansion placed into service  
67 or use before said first day of April, the provisions of  
68 this section as then in effect shall be fully and com-  
69 pletely preserved.

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

James L. Davis  
Chairman Senate Committee

Lawrence C. Christman  
Chairman House Committee

Originated in the Senate.

To take effect April 1, 1978.

J. D. Dillon Jr.  
Clerk of the Senate

V. A. Blankenship  
Clerk of the House of Delegates

W. P. Battle Jr.  
President of the Senate

Donald L. Lopp  
Speaker House of Delegates

The within is approved this the 30  
day of March, 1978.

John W. Rhyker  
Governor

RECEIVED  
MAR 11 1 42 PM '78  
OFFICE OF THE GOVERNOR

APPROVED AND SIGNED BY THE GOVERNOR

Date Mar. 30, 1978

Time 3:15 p.m.

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OFFICE  
SECY. OF STATE