

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-24-80

Time 4:50 p.m.

**WEST VIRGINIA LEGISLATURE**  
**REGULAR SESSION, 1980**



**ENROLLED**

**SENATE BILL NO. 497**

(By ~~Mr~~ Miss Hurnelom)



PASSED March 8, 1980

In Effect from Passage



700: 497  
1974

# ENROLLED

## Senate Bill No. 497

(By MISS HERNDON)

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[Passed March 8, 1980; in effect from passage.]

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AN ACT to amend and reenact sections two and three, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to taxation of motor vehicle carriers; requiring taxation of two point transportation within this state in a continuation of interstate commerce on its net income.

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

That sections two and three, article twelve-a, 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 12A. ANNUAL TAX ON INCOMES OF CERTAIN CARRIERS.**

#### **§11-12A-2. Imposition of annual tax on gross income of certain carriers.**

1 Every motor vehicle carrier operating on the public  
2 highways of this state and every railroad car carrier,  
3 railroad carrier, express company, pipeline company,  
4 telephone and telegraph company, airline company and  
5 any person operating a steamboat or other watercraft, for  
6 the transportation of passengers or freight, doing business  
7 in the state shall pay to the state an annual tax for each  
8 calendar year. This tax shall be equal to the gross income  
9 from all business beginning and ending within the state  
10 multiplied by the respective rates as follows: Motor  
11 vehicle carriers, railroad car carrier, railroad carrier,  
12 express companies, pipeline companies, airline companies,  
13 any person operating a steamboat or other watercraft and  
14 telegraph companies, three and three-tenths percent, and

15 telephone companies, three and seventy-four one-hun-  
16 dredths percent: *Provided*, That any motor vehicle carrier  
17 which is an urban or suburban bus line shall be taxed  
18 at the rate of one and sixty-five one-hundredths percent  
19 of such gross income and any motor vehicle carrier which  
20 is a taxi or cab company or a company which hauls  
21 waste, refuse or garbage shall be taxed at the rate of  
22 two and five-tenths percent of such gross income:  
23 *Provided, however*, That a motor vehicle carrier which  
24 transports goods within the state of West Virginia and  
25 which received those goods as a connecting carrier in an  
26 uninterrupted continuation of interstate transportation  
27 done under the authority of a certificate of convenience  
28 and necessity issued by the interstate commerce commis-  
29 sion, shall be taxed pursuant to subdivision (a) of section  
30 three of this article. This provision shall apply only to  
31 the transportation of goods carried within the state with-  
32 out a container change or warehousing.

**§11-12A-3. Imposition of annual tax on net income of certain carriers.**

1 In addition to the tax imposed in the preceding section,  
2 every motor vehicle carrier operating on the public high-  
3 ways of the state and every railroad carrier, railroad  
4 car carrier, express company, pipeline company, telephone  
5 and telegraph company, airline company and any person  
6 operating a steamboat or other watercraft for the trans-  
7 portation of passengers or freight, doing business in this  
8 state shall pay an annual tax for each calendar year  
9 on the net income earned within the state equal to  
10 three and seventy-four one-hundredths percent of such  
11 net income for telephone companies and six and six-  
12 tenths percent of such net income for all other carriers  
13 included in this section: *Provided*, That any motor vehicle  
14 carrier which is an urban or suburban bus line or a  
15 taxi or cab company or a company which hauls waste,  
16 refuse or garbage, five percent of such net income. Net  
17 income shall be determined as follows:

18 (a) The net income of motor vehicle carriers earned  
19 within the state including two point business in a con-  
20 tinuation of interstate commerce without a container

21 change or warehousing shall be determined by ascertain-  
22 ing a sum bearing the proportion to the total net income  
23 of the motor vehicle carrier that its business done in  
24 West Virginia measured in motor vehicle miles of motor  
25 vehicle carrier operation, bears to all business done;

26 (b) The net income of railroad carriers earned within  
27 the state shall be determined by ascertaining a sum bear-  
28 ing the proportion to total net income of the carriers  
29 that its business done in West Virginia, measured in ton-  
30 miles, bears to all business done, measured in like  
31 fashion;

32 (c) The net income of railroad car carriers and ex-  
33 press companies earned within the state shall be de-  
34 termined by ascertaining a sum bearing the proportion  
35 to the total net income of the carriers or company that  
36 its business done in West Virginia, measured in car-miles  
37 of car operation, bears to all business done, measured in  
38 like fashion: *Provided, however,* That nothing in this  
39 article shall be construed as applying to railroad freight  
40 car carriers not owned by railroad carriers or their  
41 subsidiaries;

42 (d) The net income of pipeline companies earned  
43 within the state shall be determined by ascertaining a  
44 sum bearing the proportion to the total net income of  
45 the company that its business done in West Virginia,  
46 measured in barrel-miles in the case of oil and liquid  
47 coal or slurry and of thousand cubic feet-miles in the  
48 case of gas, bears to all business done, measured in like  
49 fashion;

50 (e) The net income of airline companies and any  
51 person operating a steamboat or other watercraft for the  
52 transportation of passengers or freight earned within the  
53 state shall be determined by ascertaining a sum bearing  
54 the proportion to the total net income of the corporation  
55 that its business done in West Virginia, measured in  
56 passenger-miles in the case of airline companies and ton-  
57 miles in the case of any person operating a steamboat or  
58 other watercraft, bears to all business done, measured in  
59 like fashion;

60 (f) The net income of telephone and telegraph com-

61 panies shall be determined by ascertaining a sum bearing  
62 the proportion to the total net income of the companies  
63 that its business done in West Virginia, measured in  
64 wire-miles, bears to all business done, measured in like  
65 fashion;

66 (g) In computing the tax imposed by this section, the  
67 total net income of a taxpayer who shall have been taxed  
68 under the preceding section shall be reduced by an  
69 amount bearing the proportion to such total net income  
70 that the gross income of the taxpayer which is the  
71 measure of the tax under the preceding section bears to  
72 its total gross income from all business done wherever  
73 conducted. No county, city, town, village or other politi-  
74 cal subdivision of the state shall levy a license, net  
75 income or any other kind of tax on the business taxed  
76 under this article.

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

James L. Davis  
Chairman Senate Committee

Clarence C. Chustar Jr.  
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Todd C. Willis  
Clerk of the Senate

D. Blankenship  
Clerk of the House of Delegates

W. T. Bricker  
President of the Senate

Clayton M. Lee Jr.  
Speaker House of Delegates

The within is approved this the 24<sup>th</sup>  
~~11<sup>th</sup>~~  
day of March 1980

John P. Rhyne  
Governor



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