

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1981

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ENROLLED

SENATE BILL NO. 296

(By Mr. McGraw, Mr. President)

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PASSED April 10, 1981

In Effect July 1, 1981 ~~Page~~



No: 296

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Senate Bill No. 296

(By MR. MCGRAW, MR. PRESIDENT)

[Passed April 10, 1981; in effect June 1, 1981.]

AN ACT to amend and reenact section three, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections two and three, article fifteen-a of said chapter, all relating to increasing the consumers sales tax and use tax, and relating to purchases of permanent mobile homes at the three percent rate.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 15. CONSUMERS SALES TAX.

§11-15-9. Exemptions.

- 1 The following sales and services shall be exempt:
- 2 (1) Sales of gasoline, taxable under article fourteen,
- 3 chapter eleven of the code; one thousand nine hundred
- 4 thirty-one;

5 (2) Sales of gas, steam and water delivered to consumers
6 through mains or pipes, and sales of electricity;

7 (3) Sales of textbooks required to be used in any of the
8 schools of this state;

9 (4) Sales of property or services to the state, its institutions
10 or subdivisions, and to the United States, including agencies
11 of federal, state or local governments for distribution in
12 public welfare or relief work;

13 (5) Sales of motor vehicles which are titled by the
14 department of motor vehicles which are subject to the tax
15 imposed by section four, article three, chapter seventeen-a of
16 the code;

17 (6) Sales of property or services to churches and bona fide
18 charitable organizations who make no charge whatever for
19 the services they render or sales of property or services to
20 corporations or organizations qualified under section 501(c)

21 (3) of the Internal Revenue Code of 1954, as amended, or
22 under section 501(c) (4) of the Internal Revenue Code of 1954,
23 as amended, who make casual and occasional sales not
24 conducted in a repeated manner or in the ordinary course of
25 repetitive and successive transactions of like character, or
26 sales of property or services to persons engaged in this state
27 in the business of contracting, manufacturing, transportation,
28 transmission, communication, or in the production of natural
29 resources: *Provided, however,* That the exemption herein
30 granted shall apply only to services, machinery, supplies and
31 materials directly used or consumed in the businesses or
32 organizations named above;

33 (7) *transaction* *See* An isolated in which any tangible personal property is
34 sold, transferred, offered for sale, or delivered by the owner
35 thereof or by his representative for the owner's account, such
36 sale, transfer, offer for sale or delivery not being made in the
37 ordinary course of repeated and successive transactions of
38 like character by such owner or on his account by such
39 representative;

40 (8) Sales of tangible personal property and services
41 rendered for use or consumption in connection with the
42 conduct of the business of selling tangible personal property
43 to consumers or dispensing a service subject to tax under this
44 article or which would be subject to tax under this article but
45 for the exemption for food provided in section eleven of this
46 article and sales of tangible personal property and services
47 rendered for use or consumption in connection with the

48 commercial production of an agricultural product the
49 ultimate sale of which will be subject to the tax imposed by
50 this article or which would have been subject to tax under
51 this article but for the exemption for food provided in section
52 eleven of this article: *Provided*, That sales of tangible
53 personal property and services to be used or consumed in the
54 construction of or permanent improvement of real property
55 shall not be exempt;

56 (9) Sales of tangible personal property for the purpose of
57 resale in the form of tangible personal property;

58 (10) Sales of property or services to nationally chartered
59 fraternal or social organizations for the sole purpose of free
60 distribution in public welfare or relief work;

61 (11) Sales and services, fire fighting, or station house
62 equipment, including construction and automotive made to
63 any volunteer fire department organized and incorporated
64 under the laws of the state of West Virginia;

65 (12) Sales of newspapers when delivered to consumers by
66 route carriers;

67 (13) Sales of drugs dispensed upon prescription and sales
68 of insulin to consumers for medical purposes;

69 (14) Sales of radio and television broadcasting time,
70 newspaper and outdoor advertising space for the
71 advertisement of goods or services;

72 (15) Sales and services performed by day care centers;

73 (16) Casual and occasional sales of property or services not
74 conducted in a repeated manner or in the ordinary course of
75 repetitive and successive transactions of like character by
76 corporations or organizations qualified under section 501(c)
77 (3) of the Internal Revenue Code of 1954, as amended, or
78 under section 501(c) (4) of the Internal Revenue Code of 1954,
79 as amended;

80 (17) Bank safety deposit boxes;

81 (18) Sales of property or services to a school which has
82 approval from the West Virginia board of regents to award
83 degrees, which has its principal campus in this state, and
84 which is exempt from federal and state income taxes under
85 section 501(c) (3) of the Internal Revenue Code of 1954, as
86 amended; and

87 (19) Sales of mobile homes to be utilized by purchasers as
88 their principal year-round residence and dwelling: *Provided*,
89 That these mobile homes shall be subject to tax at the three
90 percent rate.

ARTICLE 15A. USE TAX.**§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 into
5 the state of West Virginia by a nonresident individual thereof
6 for his or her use or enjoyment while within the state.

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

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

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

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

34 6. Sales of mobile homes to be utilized by purchasers as
35 their principal year-round residence and dwelling: *Provided*,
36 That these mobile homes shall be subject to tax at the three
37 percent rate.

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

R. P. Bayler
Chairman Senate Committee

Loney E. Whitlow
Chairman House Committee

Originated in the Senate.

To take effect June 1, 1981.

Todd C. Miller
Clerk of the Senate

VA Blankenship
Clerk of the House of Delegates

Walter R. McEwen
President of the Senate

Charles H. Seelye Jr.
Speaker House of Delegates

The within is disapproved this the 24
day of April, 1981.

[Signature]
Governor

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