ENROLLED

SENATE BILL NO. 407

(By Mr. McGraw, Mr. President)

PASSED March 13, 1982

In Effect April 1, 1982
AN ACT to amend and reenact sections two-a and two-b, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to business and occupation taxes upon the production of timber and the manufacturing of wood products; and providing for certain deductions.

Be it enacted by the Legislature of West Virginia:

That sections two-a and two-b, article thirteen, 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 13. BUSINESS AND OCCUPATION TAX.
§11-13-2a. Severance, extraction and production of coal and other natural resource products.

1 Upon every person exercising the privilege of engaging
2 or continuing within this state in the business of severing,
3 extracting, reducing to possession and producing for sale,
4 profit or commercial use any natural resource products,
5 the amount of such tax to be equal to the value of the
6 articles produced as shown by the gross proceeds derived
7 from the sale thereof by the producer, except as other-
8 wise provided, multiplied by the respective rates and in
9 the classifications as follows:
10 (1) Coal, three and five-tenths percent. The value of coal
11 mined and produced in this state in the exercise of the
12 production privilege, taxable at the rates herein and in
13 section two-l in conjunction with section two of this
article, shall include in addition to the value of the mined product those values arising from the ordinary processing and preparing of such coal for sale or commercial use, where such processing and preparing are done by the producer of the coal. Ordinary processing and preparing of coal activities by the producer thereof are considered an integral part of the production privilege and include crushing, washing, cleaning, drying, sorting, sizing, blending, loading for shipment and the like applied in the ordinary mining of such products to make the same salable and commercially usable. The values taxable herein and attributable to such ordinary processing and preparing of coal activities will not be again taxable under the provisions of section two-b of this article to the producer of such coal. The processing associated with the production of all other natural resources referred to in this section and more sophisticated processing and preparing of coal activities shall be subject to the other applicable provisions of this article.

(2) Limestone or sandstone, quarried or mined, two and two-tenths percent.

(3) Oil, four and thirty-four one-hundredths percent.

(4) Natural gas, in excess of the value of five thousand dollars, eight and sixty-three one-hundredths percent.

(5) Blast furnace slag, four and thirty-four one-hundredths percent.

(6) Sand, gravel or other mineral product not quarried or mined, four and thirty-four one-hundredths percent.

(7) Timber, two and five-tenths percent. Severing and delimbing of timber by the producer thereof is the production privilege. The values taxable herein and attributable to such production of timber will not again be taxable under the provisions of section two-b of this article to the producer of such timber.

(8) Other natural resource products, two and eighty-six one-hundredths percent.

The measure of this tax is the value of the entire production in this state, regardless of the place of sale or the fact that the delivery may be made to points outside the state.
For the purpose of the production of oil classification, and the production of natural gas classification, as set forth in this section, multiple co-owners of oil or natural gas, in place, lessees thereof, or others being vested with title and ownership to part or all of the oil and gas, as personal property, immediately after severance, extraction, reduction to possession and production, except royalty recipients, in kind, shall be deemed to be a "group or combination acting as a unit" and one "person," as defined in section one of this article, if not otherwise defined therein, whenever engaged in the business of producing oil or natural gas through common use, by joint or separately executed contracts, of the same independent contractor driller or operator's services; and not withstanding provisions of private contracts for separate deposit for gross receipts in separate members' accounts or for members of such group or combination to take in kind any proportionate part of such natural resources.

Lessees, sublessees or other denominated lessees are considered to be producers of all of the oil or natural gas produced, regardless of any payment, in kind, to lessors, sublessors or other denominated lessors of a part of such natural resources as rents or royalties. Recipients of royalties or rents, in kind, in case or otherwise are taxable on their gross income pursuant to the provisions of section two-i of this article.

§11-13-2b. Manufacturing, compounding or preparing products; processing of food excepted.

Upon every person engaging or continuing within this state in the business of manufacturing, compounding or preparing for sale, profit, or commercial use, either directly or through the activity of others in whole or part, any article or articles, substance or substances, commodity or commodities, or electric power produced by public utilities or others and not taxed under other provisions of this article, or newspaper publishing (including all gross income or proceeds of sale from circulation and advertising), the amount of the tax to be equal to the value of the article, substance, commodity or electric power or newspaper, manufactured, compounded or pre-
pared for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding or preparing the same, except as otherwise provided, multiplied by a rate of eighty-eight one-hundredths of one percent. The measure of this tax is the value of the entire product manufactured, compounded or prepared in this state for sale, profit or commercial use, regardless of the place of sale or the fact that deliveries may be made to points outside the state. However, with respect to the manufacturing, compounding or preparing for sale of timber or timber products, the measure of this tax is the value of the entire timber product manufactured, compounded or prepared in the state for sale, profit or commercial use, regardless of the place of sale or the fact that deliveries may be made to points outside the state but such value shall not include the value of any timber or timber products used as ingredients, components, or elements of such timber products. However, the dressing and processing of food by a person, firm or corporation, which food is to be sold on a wholesale basis by such person, firm or corporation shall not be considered as manufacturing or compounding, but the sale of these products on a wholesale basis shall be subject to the same tax as is imposed on the business of selling at wholesale as provided in section two-c.

It is further provided, however, that in those instances in which the same person partially manufactures, compounds or prepares products within this state and partially manufactures, compounds or prepares such products outside of this state the measure of his tax under this section shall be that proportion of the sale price of the product that the payroll cost of manufacturing within this state bears to the entire payroll cost of manufacturing the product; or, at the option of the taxpayer, the measure of his tax under this section shall be the proportion of the sales value of the articles that the cost of operations in West Virginia bears to the full cost of manufacture of the articles.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

To take effect April 1, 1982.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within is approved this the 31st day of [Redacted] March, 1982.

[Signature]
Governor