

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-31-82

**WEST VIRGINIA LEGISLATURE**  
**REGULAR SESSION, 1982**



**ENROLLED**

**SENATE BILL NO. 407**

(By Mr. McGraw, Mr. President)



PASSED March 13, 1982

In Effect April 1, 1982 ~~Passage~~



# ENROLLED

## Senate Bill No. 407

(By MR. MCGRAW, MR. PRESIDENT, *original sponsor*)

[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-1 in conjunction with section two of this

14 article, shall include in addition to the value of the mined  
15 product those values arising from the ordinary processing  
16 and preparing of such coal for sale or commercial use,  
17 where such processing and preparing are done by the  
18 producer of the coal. Ordinary processing and preparing  
19 of coal activities by the producer thereof are considered  
20 an integral part of the production privilege and include  
21 crushing, washing, cleaning, drying, sorting, sizing, blend-  
22 ing, loading for shipment and the like applied in the  
23 ordinary mining of such products to make the same sal-  
24 able and commercially usable. The values taxable herein  
25 and attributable to such ordinary processing and prepar-  
26 ing of coal activities will not be again taxable under the  
27 provisions of section two-b of this article to the producer  
28 of such coal. The processing associated with the produc-  
29 tion of all other natural resources referred to in this  
30 section and more sophisticated processing and preparing  
31 of coal activities shall be subject to the other applicable  
32 provisions of this article.

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

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

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

38 (5) Blast furnace slag, four and thirty-four one-hun-  
39 dredths percent.

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

42 (7) Timber, two and five-tenths percent. Severing and  
43 delimiting of timber by the producer thereof is the pro-  
44 duction privilege. The values taxable herein and attribut-  
45 able to such production of timber will not again be  
46 taxable under the provisions of section two-b of this ar-  
47 ticle to the producer of such timber.

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

50 The measure of this tax is the value of the entire pro-  
51 duction in this state, regardless of the place of sale or the  
52 fact that the delivery may be made to points outside the  
53 state.

54 For the purpose of the production of oil classification,  
55 and the production of natural gas classification, as set  
56 forth in this section, multiple co-owners of oil or natural  
57 gas, in place, lessees thereof, or others being vested with  
58 title and ownership to part or all of the oil and gas, as  
59 personal property, immediately after severance, extrac-  
60 tion, reduction to possession and production, except  
61 royalty recipients, in kind, shall be deemed to be a "group  
62 or combination acting as a unit" and one "person," as  
63 defined in section one of this article, if not otherwise  
64 defined therein, whenever engaged in the business of pro-  
65 ducing oil or natural gas through common use, by joint or  
66 separately executed contracts, of the same independent  
67 contractor driller or operator's services; and not with-  
68 standing provisions of private contracts for separate  
69 deposit for gross receipts in separate members' accounts  
70 or for members of such group or combination to take in  
71 kind any proportionate part of such natural resources.

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

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

1 Upon every person engaging or continuing within this  
2 state in the business of manufacturing, compounding or  
3 preparing for sale, profit, or commercial use, either di-  
4 rectly or through the activity of others in whole or part,  
5 any article or articles, substance or substances, commod-  
6 ity or commodities, or electric power produced by public  
7 utilities or others and not taxed under other provisions  
8 of this article, or newspaper publishing (including all  
9 gross income or proceeds of sale from circulation and  
10 advertising), the amount of the tax to be equal to the  
11 value of the article, substance, commodity or electric  
12 power or newspaper, manufactured, compounded or pre-

13 pared for sale, as shown by the gross proceeds derived  
14 from the sale thereof by the manufacturer or person  
15 compounding or preparing the same, except as otherwise  
16 provided, multiplied by a rate of eighty-eight one-hun-  
17 dredths of one percent. The measure of this tax is the  
18 value of the entire product manufactured, compounded  
19 or prepared in this state for sale, profit or commercial  
20 use, regardless of the place of sale or the fact that de-  
21 liveries may be made to points outside the state. How-  
22 ever, with respect to the manufacturing, compounding or  
23 preparing for sale of timber or timber products, the meas-  
24 ure of this tax is the value of the entire timber product  
25 manufactured, compounded or prepared in the state for  
26 sale, profit or commercial use, regardless of the place of  
27 sale or the fact that deliveries may be made to points  
28 outside the state but such value shall not include the  
29 value of any timber or timber products used as ingre-  
30 dients, components, or elements of such timber products.  
31 However, the dressing and processing of food by a person,  
32 firm or corporation, which food is to be sold on a whole-  
33 sale basis by such person, firm or corporation shall not be  
34 considered as manufacturing or compounding, but the sale  
35 of these products on a wholesale basis shall be subject to  
36 the same tax as is imposed on the business of selling at  
37 wholesale as provided in section two-c.

38 It is further provided, however, that in those instances  
39 in which the same person partially manufactures, com-  
40 pounds or prepares products within this state and par-  
41 tially manufactures, compounds or prepares such prod-  
42 ucts outside of this state the measure of his tax under  
43 this section shall be that proportion of the sale price of  
44 the product that the payroll cost of manufacturing within  
45 this state bears to the entire payroll cost of manufactur-  
46 ing the product; or, at the option of the taxpayer, the  
47 measure of his tax under this section shall be the pro-  
48 portion of the sales value of the articles that the cost of  
49 operations in West Virginia bears to the full cost of manu-  
50 facture of the articles.

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

R. P. Bayler  
Chairman Senate Committee

Tony E. Whitlow  
Chairman House Committee

Originated in the Senate.

To take effect April 1, 1982.

James C. Vukobratovich  
Clerk of the Senate

VA Blankenship  
Clerk of the House of Delegates

Warren P. McInnis  
President of the Senate

W. H. DeLoach  
Speaker House of Delegates

The within is approved this the 31 day of ~~April~~ March, 1982.

James R. Ray  
Governor



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SECY. OF STATE