

70: 2787

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987

— ● —

# ENROLLED

HOUSE BILL No. 2787

(By Delegate Mr. Speaker Mr. Chambers,)  
and Del. Swann  
[By request of the Executive]

— ● —

Passed March 14, 1987

In Effect Ninty Days From Passage

**ENROLLED**  
**H. B. 2787**

(By MR. SPEAKER, MR. CHAMBERS and DELEGATE SWANN)  
[By request of the Executive]

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[Passed March 14, 1987; in effect ninety days from passage.]

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AN ACT to amend and reenact section nine, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to taxation; and providing an exemption from the consumers sales and services tax for items purchased with food stamps.

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

That section nine, article fifteen, 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 15. CONSUMERS SALES TAX.**

**§11-15-9. Exemptions.**

- 1     The following sales and services shall be exempt:
- 2       (1) Sales of gas, steam and water delivered to consu-
- 3       mers through mains or pipes, and sales of electricity;
- 4       (2) Sales of textbooks required to be used in any of
- 5       the schools of this state;
- 6       (3) Sales of property or services to the state, its
- 7       institutions or subdivisions, and to the United States,
- 8       including agencies of federal, state or local governments
- 9       for distribution in public welfare or relief work;
- 10      (4) Sales of motor vehicles which are titled by the

11 department of motor vehicles and which are subject to  
12 the tax imposed by section four, article three, chapter  
13 seventeen-a of the code;

14 (5) Sales of property or services to churches and bona  
15 fide charitable organizations who make no charge  
16 whatsoever for the services they render: *Provided*, That  
17 the exemption herein granted shall apply only to  
18 services, equipment, supplies and materials directly  
19 used or consumed by these organizations, and shall not  
20 apply to purchases of gasoline or special fuel;

21 (6) Sales of property or services to corporations or  
22 organizations qualified under section 501(c)(3) of the  
23 Internal Revenue Code of 1954, as amended, or under  
24 section 501(c)(4) of the Internal Revenue Code of 1954,  
25 as amended, who make casual and occasional sales not  
26 conducted in a repeated manner or in the ordinary  
27 course of repetitive and successive transactions of like  
28 character: *Provided*, That the exemption herein granted  
29 shall apply only to services, equipment, supplies and  
30 materials directly used or consumed by these organiza-  
31 tions and shall not apply to purchases of gasoline or  
32 special fuel;

33 (7) Sales of property or services to persons engaged  
34 in this state in the business of contracting, manufactur-  
35 ing, transportation, transmission, communication or in  
36 the production of natural resources: *Provided*, That the  
37 exemption herein granted shall apply only to services,  
38 machinery, supplies and materials directly used or  
39 consumed in the businesses or organizations named  
40 above, and shall not apply to purchases of gasoline or  
41 special fuel;

42 (8) An isolated transaction in which any tangible  
43 personal property is sold, transferred, offered for sale,  
44 or delivered by the owner thereof or by his representa-  
45 tive for the owner's account, such sale, transfer, offer for  
46 sale or delivery not being made in the ordinary course  
47 of repeated and successive transactions of like character  
48 by such owner or on his account by such representative;

49 (9) Sales of tangible personal property and services  
50 rendered for use or consumption in connection with the

51 conduct of the business of selling tangible personal  
52 property to consumers or dispensing a service subject to  
53 tax under this article or which would be subject to tax  
54 under this article but for the exemption for food  
55 provided in section eleven of this article and sales of  
56 tangible personal property and services rendered for use  
57 or consumption in connection with the commercial  
58 production of an agricultural product the ultimate sale  
59 of which will be subject to the tax imposed by this  
60 article or which would have been subject to tax under  
61 this article but for the exemption for food provided in  
62 section eleven of this article: *Provided*, That sales of  
63 tangible personal property and services to be used or  
64 consumed in the construction of or permanent improve-  
65 ment to real property and sales of gasoline and special  
66 fuel shall not be exempt;

67 (10) Sales of tangible personal property for the  
68 purpose of resale in the form of tangible personal  
69 property: *Provided*, That sales of gasoline and special  
70 fuel by distributors and importers shall be taxable  
71 except when the sale is to another distributor for resale;

72 (11) Sales of property or services to nationally  
73 chartered fraternal or social organizations for the sole  
74 purpose of free distribution in public welfare or relief  
75 work: *Provided*, That sales of gasoline and special fuel  
76 shall be taxable;

77 (12) Sales and services, fire fighting or station house  
78 equipment, including construction and automotive,  
79 made to any volunteer fire department organized and  
80 incorporated under the laws of the state of West  
81 Virginia: *Provided*, That sales of gasoline and special  
82 fuel shall be taxable;

83 (13) Sales of newspapers when delivered to consumers  
84 by route carriers;

85 (14) Sales of drugs dispensed upon prescription and  
86 sales of insulin to consumers for medical purposes;

87 (15) Sales of radio and television broadcasting time,  
88 newspaper and outdoor advertising space for the  
89 advertisement of goods or services;

90       (16) Sales and services performed by day care centers;

91       (17) Casual and occasional sales of property or  
92 services not conducted in a repeated manner or in the  
93 ordinary course of repetitive and successive transactions  
94 of like character by corporations or organizations  
95 qualified under section 501(c)(3) of the Internal Revenue  
96 Code of 1954, as amended, or under section 501(c)(4) of  
97 the Internal Revenue Code of 1954, as amended;

98       (18) Bank safety deposit boxes;

99       (19) Sales of property or services to a school which has  
100 approval from the West Virginia board of regents to  
101 award degrees, which has its principal campus in this  
102 state, and which is exempt from federal and state  
103 income taxes under section 501(c)(3) of the Internal  
104 Revenue Code of 1954, as amended: *Provided*, That sales  
105 of gasoline and special fuel shall be taxable;

106       (20) Sales of mobile homes to be utilized by purchas-  
107 ers as their principal year-round residence and dwell-  
108 ing: *Provided*, That these mobile homes shall be subject  
109 to tax at the three percent rate;

110       (21) Sales of lottery tickets and materials by licensed  
111 lottery sales agents and lottery retailers authorized by  
112 the state lottery commission, under the provisions of  
113 article twenty-two, chapter twenty-nine of this code;

114       (22) Leases of motor vehicles titled pursuant to the  
115 provisions of article three, chapter seventeen-a of this  
116 code to lessees for a period of thirty or more consecutive  
117 days. This exemption shall apply to leases executed on  
118 or after the first day of July, one thousand nine hundred  
119 eighty-seven, and to payments under long-term leases  
120 executed before such date, for months thereof beginning  
121 on or after such date; and

122       (23) Any sales of tangible personal property or  
123 services purchased after the thirtieth day of September,  
124 one thousand nine hundred eighty-seven, and lawfully  
125 paid for with food stamps pursuant to the federal food  
126 stamp program codified in United States Code, 2011, et  
127 seq., as amended.

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

*Gene O. Whitham*  
 Chairman Senate Committee

*Lyle Satter*  
 Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Todd C. Withers*  
 Clerk of the Senate

*Donald R. Hoop*  
 Clerk of the House of Delegates

*Ran Tordella*  
 President of the Senate

*John C. Chubb*  
 Speaker of the House of Delegates

The within *approved* this the *30th*  
*March*  
 day of \_\_\_\_\_, 1987.

*Arch A. Hansen Jr.*  
 Governor

PRESENTED TO THE  
GOVERNOR  
Date 3/26/87  
Time 2:45 p.m.

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SECRETARY'S OFFICE