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SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989



# ENROLLED

SENATE BILL NO. 622

*Originating in the Committee*

(By Senator an Stupp and Means)



PASSED April 6, 1989

In Effect from Passage

**ENROLLED**  
**Senate Bill No. 622**

(ORIGINATING IN THE COMMITTEE ON WAYS AND MEANS.)

[Passed April 6, 1989; in effect from passage.]

AN ACT to amend and reenact sections one and two-e, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the business and occupation tax; providing definitions relating to net number of dekatherms injected and withdrawn from a storage reservoir and amending definition of storage reservoir; and amending the calculation of the rate of tax imposed on persons engaging or continuing in state in the gas storage business.

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

That sections one and two-e, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 13. BUSINESS AND OCCUPATION TAX.**

**§11-13-1. Definitions.**

1 (a) *General.* — When used in this article, or in the  
2 administration of this article, the terms defined in  
3 subsection (b) shall have the meanings ascribed to  
4 them by this section, unless a different meaning is

5 clearly required by either the context in which the  
6 term is used or by specific definition.

7 (b) *Terms defined.*

8 (1) "Person" or the term "company," herein used  
9 interchangeably, includes any individual, firm,  
10 copartnership, joint adventure, association, corpora-  
11 tion, trust or any other group or combination acting as  
12 a unit, and the plural as well as the singular number,  
13 unless the intention to give a more limited meaning is  
14 disclosed by the context.

15 (2) "Sale," "sales" or "selling" includes any transfer  
16 of or title to property or electricity, whether for  
17 money or in exchange for other property.

18 (3) "Taxpayer" means any person liable for any tax  
19 hereunder.

20 (4) "Gross income" means the gross receipts of the  
21 taxpayer, received as compensation for personal  
22 services and the gross receipts of the taxpayer derived  
23 from trade, business, commerce or sales and the value  
24 proceeding or accruing from the sale of tangible  
25 property (real or personal), or service, or both, and all  
26 receipts by reason of the investment of the capital of  
27 the business engaged in, including rentals, royalties,  
28 fees, reimbursed costs or expenses or other  
29 emoluments however designated and including all  
30 interest, carrying charges, fees or other like income,  
31 however denominated, derived by the taxpayer from  
32 repetitive carrying of accounts, in the regular course  
33 and conduct of his business, and extension of credit in  
34 connection with the sale of any tangible personal  
35 property or service, and without any deductions on  
36 account of the cost of property sold, the cost of  
37 materials used, labor costs, taxes, royalties paid in cash  
38 or in kind or otherwise, interest or discount paid or  
39 any other expenses whatsoever.

40 (5) "Gross proceeds of sales" means the value,  
41 whether in money or other property, actually proceed-  
42 ing from the sale of tangible property without any  
43 deduction on account of the cost of property sold or

44 expenses of any kind.

45 (6) "Business" shall include all activities engaged in  
46 or caused to be engaged in with the object of gain or  
47 economic benefit, either direct or indirect. "Business"  
48 shall include the rendering of gas storage service by  
49 any person for the gain or economic benefit of any  
50 person, including, but not limited to, the storage  
51 operator, whether or not incident to any other busi-  
52 ness activity.

53 (7) "Gas" means either natural gas unmixed, or any  
54 mixture of natural and artificial gas or any other gas.

55 (8) "Storage reservoir" means that portion of any  
56 subterranean sand or rock stratum or strata into  
57 which gas has been injected for the purpose of storage  
58 prior to the first day of March, one thousand nine  
59 hundred eighty-nine.

60 (9) "Gas storage service" means the injection of gas  
61 into a storage reservoir, the storage of gas for any  
62 period of time in a storage reservoir, or the with-  
63 drawal of gas from a storage reservoir. Such gas may  
64 be owned by the storage operator or any other person.

65 (10) "Net number of dekatherms of gas injected"  
66 means the sum of the daily injection of dekatherms of  
67 gas in excess of the sum of the daily withdrawals of  
68 dekatherms of gas during a tax month.

69 (11) "Net number of dekatherms of gas withdrawn"  
70 means the sum of the daily withdrawal of dekatherms  
71 of gas in excess of the sum of the daily injection of  
72 dekatherms of gas during a tax month.

73 (12) "Gas storage operator" means any person who  
74 operates a storage reservoir or provides a storage  
75 service as defined herein, either as owner or lessee.

76 (13) "Month" or "tax month" means the calendar  
77 month.

78 (14) "Dekatherm" means the thermal energy unit  
79 equal to one million British thermal units (BTU's) or  
80 the equivalent of one thousand cubic feet of gas having  
81 a heating content of one thousand BTU's per cubic

82 foot.

83 (15) "Taxable year" means the calendar year, or the  
84 fiscal year ending during such calendar year, upon the  
85 basis of which tax liability is computed under this  
86 article. "Taxable year" means, in case of a return  
87 made for a fractional part of a year under the  
88 provisions of this article, or under regulations  
89 promulgated by the tax commissioner, the period for  
90 which such return is made.

**§11-13-2e. Business of gas storage; effective date.**

1 (a) *Rate of tax.* — Upon every person engaging or  
2 continuing within this state in any gas storage business  
3 utilizing one or more gas storage reservoirs located  
4 within this state, the tax imposed by section two of  
5 this article shall be equal to five cents multiplied by  
6 the sum of either (1) the net number of dekatherms of  
7 gas injected into such a gas storage reservoir during a  
8 tax month or (2) the net number of dekatherms of gas  
9 withdrawn from such a gas storage reservoir during a  
10 tax month, whichever is applicable for that month,  
11 whether or not such gas is owned by, or is injected or  
12 withdrawn for, the storage operator or any other  
13 person. Fractional parts of dekatherms shall be  
14 included in the measure of tax as provided in  
15 regulations promulgated by the tax commissioner.

16 (b) *Effective date.* — The measure of tax under this  
17 section shall include gas injected into, or withdrawn  
18 from, a gas storage reservoir after the twenty-eighth  
19 day of February, one thousand nine hundred eighty-  
20 nine.

21 (c) *Administration; installment payments.* — The tax  
22 due under this section shall be administered, collected  
23 and enforced as provided in this article and articles  
24 nine and ten of this chapter. The tax due under this  
25 section shall be remitted in periodic installments as  
26 provided in section four of this article, except that  
27 such periodic installment payments shall be remitted  
28 on or before the twentieth day of the month following  
29 the month or quarter in which the tax accrues.

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

*Frederick L. Parker*  
.....  
Chairman Senate Committee

*Bernard V. Kelly*  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage.

*Irish C. Miller*  
.....  
Clerk of the Senate

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

*John T. ...*  
.....  
President of the Senate

*W. H. ...*  
.....  
Speaker House of Delegates

The within *is approved* this the *5th*  
day of *April* 19*89*.  
*Gaston Caperton*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/14/89

Time 4:30