WEST VIRGINIA LEGISLATURE
SECOND EXTRAORDINARY SESSION, 2000

ENROLLED

House Bill No. 201
(By Mr. Speaker, Mr. Kiss, and Delegate Trump)
(By Request of the Executive)

Passed November 14, 2000
In Effect from Passage

(Passed by the Legislature and enrolled for permanent record.)

[Stamp: RECEIVED]
[Stamp: OFFICE OF THE SECRETARY]
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ENROLLED

H. B. 201

(By Mr. Speaker, Mr. Kiss, and Delegate Trump)
[By Request of the Executive]

[Passed November 14, 2000; in effect from passage.]

AN ACT to amend section two, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section two-f, all relating generally to the business and occupation tax; deleting certain expired provisions and obsolete language; imposing a business and occupation tax on the privilege of manufacturing or producing synthetic fuel products from coal; providing for rate and measure of tax; defining terms; providing for credits to not reduce tax; authorizing promulgation of emergency rule; dedicating net proceeds of tax collected; setting forth date expiration date for tax and specifying effective date of tax.

Be it enacted by the Legislature of West Virginia:

That section two, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section two-f, all to read as follows:
ARTICLE 13. BUSINESS AND OCCUPATION TAX.

§11-13-2. Imposition of privilege tax.

(a) Imposition of tax. — There is hereby levied and shall be collected annual privilege taxes against the persons, on account of their business and other activities, and in the amount to be determined by the application of rates against the measures of tax as set forth in sections two-d, two-e, two-f, two-m, two-n and two-o of this article.

(b) If any person liable for any tax under section two-m shall ship or transport his products or any part thereof out of the state without making sale of such products, the value of the products in the condition or form in which they exist immediately before transportation out of the state shall be the basis for the assessment of the tax imposed in the applicable section, except in those instances in which another measure of the tax is expressly provided. The tax commissioner shall prescribe equitable and uniform rules for ascertaining the value.

(c) In determining value, however, as regards sales from one to another of affiliated companies or persons, or under other circumstances where the relation between the buyer and seller is such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale, the tax commissioner shall prescribe uniform and equitable rules for determining the value upon which the applicable privilege tax shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character where no common interest exists between the buyer and seller but the circumstances and conditions are otherwise similar.

§11-13-2f. Manufacturing or producing synthetic fuel from coal.

(a) Rate and measure of tax. — Upon every person engaging or continuing within this state in the business of manufacturing or producing synthetic fuel from coal for sale, profit, or commercial use, either directly or through the activity of others in whole or in part, the amount of the tax shall be equal to fifty cents per ton of synthetic fuel manufactured or produced for
sale, profit or commercial use. When a fraction of a ton is
included in the measure of tax, the rate of tax as to that fraction
of a ton shall be proportional. The measure of tax is the total
number of tons of synthetic fuel product manufactured or
produced 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 this state. Liability for payment of this
tax shall accrue when the synthetic fuel product is sold by the
manufacturer or producer, determined by when the producer or
manufacturer recognizes gross receipts for federal income tax
purposes. When there is no sale of the synthetic fuel product,
liability for tax shall accrue when the synthetic fuel product is
shipped from the manufacturing facility for commercial use,
whether by the taxpayer or by a related party, except as
otherwise provided in legislative rules promulgated by the tax
commissioner as provided in article three, chapter twenty-nine-
a of this code.

(b) Definitions. – For purposes of this section:

(1) “Fuel” means material that produces usable heat upon
combustion.

(2) “Fuel manufactured or produced from coal” means
liquid, gaseous, or solid fuels produced from coal including, but
not limited to, such fuels when used as feedstocks.

(3) “Synthetic fuel manufactured or produced from coal” or
“synthetic fuel” means fuel manufactured or produced from
coal for which credit is allowable for federal income tax
purposes under section twenty-nine of the United States Internal
Revenue Code, as in effect on the effective date of this section,
or for which credit would have been allowable if the synthetic
fuel was produced from a facility, or expansion of a facility,
that meets the requirement of section twenty-nine of the
Internal Revenue Code or would have met the requirements on
the effective date of this section. “Synthetic fuel” does not
include coke or coke gas.

(4) “Ton” means two thousand pounds.

(c) Credits not allowed against tax. – When determining
the amount of tax due under this section, no credit shall be allowed under section three-c or three-d of this article or under any other article of this chapter or chapter of this code, unless it is expressly provided that the credit applies to the business and occupation tax on the privilege of manufacturing or producing synthetic fuel.

(d) Emergency rule authorized. – The tax commissioner may, in the commissioner's discretion, promulgate an emergency rule, as provided in article three, chapter twenty-nine-a of this code, that clarifies, explains or implements the provisions of this section.

(e) Dedication of proceeds. – The net amount of tax collected for exercise of the privilege taxed under this section shall be deposited into the “Mining and Reclamation Operations Fund” created in the state treasury by section thirty-two, article three, chapter twenty-two of this code.

(f) Effective date. – This section shall take effect upon enactment, and the measure of tax shall include all synthetic fuel sold or shipped after the first day of January, two thousand one, regardless of when the synthetic fuel was manufactured or produced in this state.

(g) Expiration date. - The tax imposed in this section shall expire and become void and of no effect for synthetic fuels produced after the thirtieth day of June, two thousand two.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within __________ approved this the _______ day of __________, 2000.

Governor
PRESENTED TO THE
GOVERNOR
Date 11/17/00
Time 9:04 AM