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SECRETARY OF STATE

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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000



# ENROLLED

SENATE BILL NO. 342

(By Senator Love )



PASSED March 11, 2000

In Effect July 1, 2000 ~~██████████~~

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SECRETARY OF STATE

**ENROLLED**

**Senate Bill No. 342**

(BY SENATOR LOVE)

[Passed March 11, 2000; to take effect July 1, 2000.]

AN ACT to amend and reenact section four, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the business registration tax generally; and providing for proof of payment of personal taxes prior to receiving the business certificate from the tax commissioner.

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

That section four, article twelve, 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 12. BUSINESS REGISTRATION TAX.**

**§11-12-4. Application for business registration certificate; issuance of business certificate; effect of business registration certificate; municipal license taxes.**

1 (a) (1) *General rule.* – Except as otherwise provided in  
2 this article, a person shall register with the tax commis-  
3 sioner prior to engaging in or prosecuting any business  
4 activity in this state. The application for business regis-  
5 tration shall be in the form and contain the information  
6 required by the tax commissioner. The applicant shall set  
7 forth truthfully and accurately the information required  
8 by the tax commissioner. Upon receipt of a complete and  
9 properly executed application form, accompanied by  
10 payment of, or claim of exemption from, the tax levied by  
11 section three for each business registration certificate, the  
12 tax commissioner shall, if he or she determines to his or  
13 her satisfaction that all of the conditions precedent to the  
14 granting of the certificate have been fulfilled by the  
15 applicant, issue a business registration certificate or  
16 certificates.

17 (2) *Exception.* – The business registration certificate or  
18 certificates may not be issued or renewed by the tax  
19 commissioner unless the applicant has furnished the  
20 receipt provided to show full payment of the personal  
21 property taxes for the calendar year which immediately  
22 precedes the calendar year in which the application is  
23 made on all personal property, as defined in article five of  
24 this chapter, which was owned by the applicant and used  
25 in conjunction with the business activity of the applicant  
26 on the tax day for the former calendar year. If the appli-  
27 cant contends that the personal property was not subject  
28 to personal taxation for that year, the applicant must  
29 provide such information and evidence as the tax commis-  
30 sioner requires to substantiate that contention.

31 (b) *Certificate not to validate illegal activity.* – Nothing  
32 in this article, including, but not limited to, any payment  
33 of the tax imposed or issuance of any certificate of regis-  
34 tration under the provisions of this section, legalizes any  
35 act, business activity or transaction which otherwise may  
36 be illegal or conducted in violation of law or exempts any

37 person from any civil or criminal penalty prescribed for  
38 the illegal act or violation.

39 (c) *Certificate not to be construed as consent to general*  
40 *tax jurisdiction of this state.* –The filing of an application  
41 for business registration certificate, or for renewal of the  
42 certificate and payment of the tax imposed by section  
43 three does not serve as consent, submission or admission  
44 by the registrant to the general taxing jurisdiction of this  
45 state, and liability for other taxes imposed by this state  
46 depends upon the relevant facts in each case and the  
47 applicable law.

48 (d) *Power of municipalities to impose license taxes*  
49 *preserved.* –Notwithstanding the repeal, as of the first day  
50 of July, one thousand nine hundred seventy, of certain  
51 license taxes then imposed by this article and article  
52 thirteen-a of this chapter, the power of a municipality to  
53 impose similar license taxes, by ordinance adopted pursu-  
54 ant to the authority of its charter or this code, was and is  
55 preserved: *Provided,* That the municipal license taxes  
56 imposed on any business, activity, trade or employment  
57 that was previously subject to a state license tax under this  
58 article or article thirteen-a of this chapter, may not exceed  
59 the state license tax in effect on the business, activity,  
60 trade or employment of the first day of January, one  
61 thousand nine hundred seventy; and municipalities have  
62 the power to impose similar penalties as those then  
63 provided in this article and article thirteen-a of this  
64 chapter for noncompliance with the state license taxes.

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

*[Handwritten Signature]*  
.....  
Chairman Senate Committee

*[Handwritten Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

Takes effect July 1, 2000.

*[Handwritten Signature]*  
.....  
Clerk of the Senate

*[Handwritten Signature]*  
.....  
Clerk of the House of Delegates

*[Handwritten Signature]*  
.....  
President of the Senate

*[Handwritten Signature]*  
.....  
Speaker House of Delegates

The within..... *[Handwritten Signature]* ..... this the *24th*  
*March*  
Day of....., 2000.

*[Handwritten Signature]*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date: 3/18/10

Time: 12:00 pm