

FILED

2001 APR 17 P 5: 34

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001



ENROLLED

House Bill No. 2824

(By Delegates Compton, Leach, Kominar,
Vamer, Michael, Browning and Hall)



Passed April 10, 2001

In Effect July 1, 2001

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OFFICE WEST VIRGINIA
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H. B. 2824

(BY DELEGATES COMPTON, LEACH, KOMINAR,
VARNER, MICHAEL, BROWNING AND HALL)

[Passed April 10, 2001; in effect July 1, 2001.]

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 exempting from sales tax certain food packages sold to individuals who perform at least two hours of community service for each unit of food purchased; exempting sales of band boosters or other athletic or school booster organizations from sales tax; exempting sales by the division of culture and history of publications entitled "Goldenseal" and "West Virginia History"; exempting soap used at car wash facilities from the consumers sales tax; and exempting commissions received by a travel agency from an out-of-state vendor.

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:

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ARTICLE 15. CONSUMERS SALES TAX.

§11-15-9. Exemptions.

1 (a) *Exemptions for which exemption certificate may be*
2 *issued.* — A person having a right or claim to any exemption
3 set forth in this subsection may, in lieu of paying the tax
4 imposed by this article and filing a claim for refund, execute a
5 certificate of exemption, in the form required by the tax
6 commissioner, and deliver it to the vendor of the property or
7 service, in the manner required by the tax commissioner.
8 However, the tax commissioner may, by rule, specify those
9 exemptions authorized in this subsection for which exemptions
10 certificates are not required. The following sales of tangible
11 personal property and services are exempt as provided in this
12 subsection:

13 (1) Sales of gas, steam and water delivered to consumers
14 through mains or pipes and sales of electricity;

15 (2) Sales of textbooks required to be used in any of the
16 schools of this state or in any institution in this state which
17 qualifies as a nonprofit or educational institution subject to the
18 West Virginia department of education and the arts, the board
19 of trustees of the university system of West Virginia or the
20 board of directors for colleges located in this state;

21 (3) Sales of property or services to this state, its institutions
22 or subdivisions, governmental units, institutions or subdivisions
23 of other states: *Provided,* That the law of the other state
24 provides the same exemption to governmental units or subdivi-
25 sions of this state and to the United States, including agencies
26 of federal, state or local governments for distribution in public
27 welfare or relief work;

28 (4) Sales of vehicles which are titled by the division of
29 motor vehicles and which are subject to the tax imposed by

30 section four, article three, chapter seventeen-a of this code, or
31 like tax;

32 (5) Sales of property or services to churches which make no
33 charge whatsoever for the services they render: *Provided*, That
34 the exemption granted in this subdivision applies only to
35 services, equipment, supplies, food for meals and materials
36 directly used or consumed by these organizations and does not
37 apply to purchases of gasoline or special fuel;

38 (6) Sales of tangible personal property or services to a
39 corporation or organization which has a current registration
40 certificate issued under article twelve of this chapter, which is
41 exempt from federal income taxes under Section 501(c)(3) or
42 (c)(4) of the Internal Revenue Code of 1986, as amended, and
43 which is:

44 (A) A church or a convention or association of churches as
45 defined in Section 170 of the Internal Revenue Code of 1986,
46 as amended;

47 (B) An elementary or secondary school which maintains a
48 regular faculty and curriculum and has a regularly enrolled
49 body of pupils or students in attendance at the place in this state
50 where its educational activities are regularly carried on;

51 (C) A corporation or organization which annually receives
52 more than one half of its support from any combination of gifts,
53 grants, direct or indirect charitable contributions or membership
54 fees;

55 (D) An organization which has no paid employees and its
56 gross income from fund raisers, less reasonable and necessary
57 expenses incurred to raise the gross income (or the tangible
58 personal property or services purchased with the net income),
59 is donated to an organization which is exempt from income

60 taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue
61 Code of 1986, as amended;

62 (E) A youth organization, such as the girl scouts of the
63 United States of America, the boy scouts of America or the
64 YMCA Indian guide/princess program and the local affiliates
65 thereof, which is organized and operated exclusively for
66 charitable purposes and has as its primary purpose the
67 nonsectarian character development and citizenship training of
68 its members;

69 (F) For purposes of this subsection:

70 (i) The term "support" includes, but is not limited to:

71 (I) Gifts, grants, contributions or membership fees;

72 (II) Gross receipts from fund raisers which include receipts
73 from admissions, sales of merchandise, performance of services
74 or furnishing of facilities in any activity which is not an
75 unrelated trade or business within the meaning of Section 513
76 of the Internal Revenue Code of 1986, as amended;

77 (III) Net income from unrelated business activities, whether
78 or not the activities are carried on regularly as a trade or
79 business;

80 (IV) Gross investment income as defined in Section 509(e)
81 of the Internal Revenue Code of 1986, as amended;

82 (V) Tax revenues levied for the benefit of a corporation or
83 organization either paid to or expended on behalf of the
84 organization; and

85 (VI) The value of services or facilities (exclusive of
86 services or facilities generally furnished to the public without
87 charge) furnished by a governmental unit referred to in Section

88 170(c)(1) of the Internal Revenue Code of 1986, as amended,
89 to an organization without charge. This term does not include
90 any gain from the sale or other disposition of property which
91 would be considered as gain from the sale or exchange of a
92 capital asset, or the value of an exemption from any federal,
93 state or local tax or any similar benefit;

94 (ii) The term “charitable contribution” means a contribution
95 or gift to or for the use of a corporation or organization,
96 described in Section 170(c)(2) of the Internal Revenue Code of
97 1986, as amended; and

98 (iii) The term “membership fee” does not include any
99 amounts paid for tangible personal property or specific services
100 rendered to members by the corporation or organization;

101 (G) The exemption allowed by this subdivision does not
102 apply to sales of gasoline or special fuel or to sales of tangible
103 personal property or services to be used or consumed in the
104 generation of unrelated business income as defined in Section
105 513 of the Internal Revenue Code of 1986, as amended. The
106 provisions of this subdivision apply to sales made after the
107 thirtieth day of June, one thousand nine hundred eighty-nine:
108 *Provided*, That the exemption granted in this subdivision
109 applies only to services, equipment, supplies and materials used
110 or consumed in the activities for which the organizations
111 qualify as tax exempt organizations under the Internal Revenue
112 Code and does not apply to purchases of gasoline or special
113 fuel;

114 (7) An isolated transaction in which any taxable service or
115 any tangible personal property is sold, transferred, offered for
116 sale or delivered by the owner of the property or by his or her
117 representative for the owner’s account, the sale, transfer, offer
118 for sale or delivery not being made in the ordinary course of
119 repeated and successive transactions of like character by the

120 owner or on his or her account by the representative: *Provided*,
121 That nothing contained in this subdivision may be construed to
122 prevent an owner who sells, transfers or offers for sale tangible
123 personal property in an isolated transaction through an auction-
124 eer from availing himself or herself of the exemption provided
125 in this subdivision, regardless of where the isolated sale takes
126 place. The tax commissioner may propose a legislative rule for
127 promulgation pursuant to article three, chapter twenty-nine-a of
128 this code which he or she considers necessary for the efficient
129 administration of this exemption;

130 (8) Sales of tangible personal property or of any taxable
131 services rendered for use or consumption in connection with the
132 commercial production of an agricultural product the ultimate
133 sale of which is subject to the tax imposed by this article or
134 which would have been subject to tax under this article:
135 *Provided*, That sales of tangible personal property and services
136 to be used or consumed in the construction of or permanent
137 improvement to real property and sales of gasoline and special
138 fuel are not exempt: *Provided, however*, That nails and fencing
139 may not be considered as improvements to real property;

140 (9) Sales of tangible personal property to a person for the
141 purpose of resale in the form of tangible personal property:
142 *Provided*, That sales of gasoline and special fuel by distributors
143 and importers is taxable except when the sale is to another
144 distributor for resale: *Provided, however*, That sales of building
145 materials or building supplies or other property to any person
146 engaging in the activity of contracting, as defined in this article,
147 which is to be installed in, affixed to or incorporated by that
148 person or his or her agent into any real property, building or
149 structure is not exempt under this subdivision;

150 (10) Sales of newspapers when delivered to consumers by
151 route carriers;

152 (11) Sales of drugs dispensed upon prescription and sales
153 of insulin to consumers for medical purposes;

154 (12) Sales of radio and television broadcasting time,
155 preprinted advertising circulars and newspaper and outdoor
156 advertising space for the advertisement of goods or services;

157 (13) Sales and services performed by day care centers;

158 (14) Casual and occasional sales of property or services not
159 conducted in a repeated manner or in the ordinary course of
160 repetitive and successive transactions of like character by a
161 corporation or organization which is exempt from tax under
162 subdivision (6) of this subsection on its purchases of tangible
163 personal property or services:

164 (A) For purposes of this subdivision, the term “casual and
165 occasional sales not conducted in a repeated manner or in the
166 ordinary course of repetitive and successive transactions of like
167 character” means sales of tangible personal property or services
168 at fund raisers sponsored by a corporation or organization
169 which is exempt, under subdivision (6) of this subsection, from
170 payment of the tax imposed by this article on its purchases,
171 when the fund raisers are of limited duration and are held no
172 more than six times during any twelve-month period and
173 “limited duration” means no more than eighty-four consecutive
174 hours; and

175 (B) The provisions of this subdivision apply to sales made
176 after the thirtieth day of June, one thousand nine hundred
177 eighty-nine;

178 (15) Sales of property or services to a school which has
179 approval from the board of trustees of the university system of
180 West Virginia or the board of directors of the state college
181 system to award degrees, which has its principal campus in this
182 state, and which is exempt from federal and state income taxes

183 under Section 501(c)(3) of the Internal Revenue Code of 1986,
184 as amended: *Provided*, That sales of gasoline and special fuel
185 are taxable;

186 (16) Sales of mobile homes to be used by purchasers as
187 their principal year-round residence and dwelling: *Provided*,
188 That these mobile homes are subject to tax at the three-percent
189 rate;

190 (17) Sales of lottery tickets and materials by licensed
191 lottery sales agents and lottery retailers authorized by the state
192 lottery commission, under the provisions of article twenty-two,
193 chapter twenty-nine of this code;

194 (18) Leases of motor vehicles titled pursuant to the provi-
195 sions of article three, chapter seventeen-a of this code to lessees
196 for a period of thirty or more consecutive days. This exemption
197 applies to leases executed on or after the first day of July, one
198 thousand nine hundred eighty-seven, and to payments under
199 long-term leases executed before that date, for months of the
200 lease beginning on or after that date;

201 (19) Notwithstanding the provisions of section eighteen of
202 this article or any other provision of this article to the contrary,
203 sales of propane to consumers for poultry house heating
204 purposes, with any seller to the consumer who may have prior
205 paid the tax in his or her price, to not pass on the same to the
206 consumer, but to make application and receive refund of the tax
207 from the tax commissioner pursuant to rules which are promul-
208 gated after being proposed for legislative approval in accor-
209 dance with chapter twenty-nine-a of this code by the tax
210 commissioner;

211 (20) Any sales of tangible personal property or services
212 purchased after the thirtieth day of September, one thousand
213 nine hundred eighty-seven, and lawfully paid for with food
214 stamps pursuant to the federal food stamp program codified in

215 7 U.S.C. §2011 et seq., as amended, or with drafts issued
216 through the West Virginia special supplement food program for
217 women, infants and children codified in 42 U.S.C. §1786;

218 (21) Sales of tickets for activities sponsored by elementary
219 and secondary schools located within this state;

220 (22) Sales of electronic data processing services and related
221 software: *Provided*, That for the purposes of this subdivision
222 “electronic data processing services” means: (A) The process-
223 ing of another’s data, including all processes incident to
224 processing of data such as keypunching, keystroke verification,
225 rearranging or sorting of previously documented data for the
226 purpose of data entry or automatic processing and changing the
227 medium on which data is sorted, whether these processes are
228 done by the same person or several persons; and (B) providing
229 access to computer equipment for the purpose of processing
230 data or examining or acquiring data stored in or accessible to
231 the computer equipment;

232 (23) Tuition charged for attending educational summer
233 camps;

234 (24) Dispensing of services performed by one corporation,
235 partnership or limited liability company for another corpora-
236 tion, partnership or limited liability company when the entities
237 are members of the same controlled group or are related
238 taxpayers as defined in Section 267 of the Internal Revenue
239 Code. “Control” means ownership, directly or indirectly, of
240 stock, equity interests or membership interests possessing fifty
241 percent or more of the total combined voting power of all
242 classes of the stock of a corporation, equity interests of a
243 partnership or membership interests of a limited liability
244 company entitled to vote or ownership, directly or indirectly, of
245 stock, equity interests or membership interests possessing fifty

246 percent or more of the value of the corporation, partnership or
247 limited liability company;

248 (25) Food for the following are exempt:

249 (A) Food purchased or sold by a public or private school,
250 school-sponsored student organizations or school-sponsored
251 parent-teacher associations to students enrolled in the school or
252 to employees of the school during normal school hours; but not
253 those sales of food made to the general public;

254 (B) Food purchased or sold by a public or private college or
255 university or by a student organization officially recognized by
256 the college or university to students enrolled at the college or
257 university when the sales are made on a contract basis so that
258 a fixed price is paid for consumption of food products for a
259 specific period of time without respect to the amount of food
260 product actually consumed by the particular individual contract-
261 ing for the sale and no money is paid at the time the food
262 product is served or consumed;

263 (C) Food purchased or sold by a charitable or private
264 nonprofit organization, a nonprofit organization or a govern-
265 mental agency under a program to provide food to low-income
266 persons at or below cost;

267 (D) Food sold by a charitable or private nonprofit organiza-
268 tion, a nonprofit organization or a governmental agency under
269 a program operating in West Virginia for a minimum of five
270 years to provide food at or below cost to individuals who
271 perform a minimum of two hours of community service for
272 each unit of food purchased from the organization;

273 (E) Food sold in an occasional sale by a charitable or
274 nonprofit organization, including volunteer fire departments
275 and rescue squads, if the purpose of the sale is to obtain revenue

276 for the functions and activities of the organization and the
277 revenue obtained is actually expended for that purpose;

278 (F) Food sold by any religious organization at a social or
279 other gathering conducted by it or under its auspices, if the
280 purpose in selling the food is to obtain revenue for the functions
281 and activities of the organization and the revenue obtained from
282 selling the food is actually used in carrying on those functions
283 and activities: *Provided*, That purchases made by the organiza-
284 tions are not exempt as a purchase for resale;

285 (26) Sales of food by little leagues, midget football leagues,
286 youth football or soccer leagues, band boosters or other school
287 or athletic booster organizations supporting activities for grades
288 kindergarten through twelve and similar types of organizations,
289 including scouting groups and church youth groups, if the
290 purpose in selling the food is to obtain revenue for the functions
291 and activities of the organization and the revenues obtained
292 from selling the food is actually used in supporting or carrying
293 on functions and activities of the groups: *Provided*, That the
294 purchases made by the organizations are not exempt as a
295 purchase for resale;

296 (27) Charges for room and meals by fraternities and
297 sororities to their members: *Provided*, That the purchases made
298 by a fraternity or sorority are not exempt as a purchase for
299 resale;

300 (28) Sales of or charges for the transportation of passengers
301 in interstate commerce;

302 (29) Sales of tangible personal property or services to any
303 person which this state is prohibited from taxing under the laws
304 of the United States or under the constitution of this state;

305 (30) Sales of tangible personal property or services to any
306 person who claims exemption from the tax imposed by this

307 article or article fifteen-a of this chapter pursuant to the
308 provision of any other chapter of this code;

309 (31) Charges for the services of opening and closing a
310 burial lot;

311 (32) Sales of livestock, poultry or other farm products in
312 their original state by the producer of the livestock, poultry or
313 other farm products or a member of the producer's immediate
314 family who is not otherwise engaged in making retail sales of
315 tangible personal property; and sales of livestock sold at public
316 sales sponsored by breeders or registry associations or livestock
317 auction markets: *Provided*, That the exemptions allowed by this
318 subdivision apply to sales made on or after the first day of July,
319 one thousand nine hundred ninety, and may be claimed without
320 presenting or obtaining exemption certificates: *Provided*,
321 *however*, That the farmer shall maintain adequate records;

322 (33) Sales of motion picture films to motion picture
323 exhibitors for exhibition if the sale of tickets or the charge for
324 admission to the exhibition of the film is subject to the tax
325 imposed by this article and sales of coin-operated video arcade
326 machines or video arcade games to a person engaged in the
327 business of providing the machines to the public for a charge
328 upon which the tax imposed by this article is remitted to the tax
329 commissioner: *Provided*, That the exemption provided in this
330 subdivision applies to sales made on or after the first day of
331 July, one thousand nine hundred ninety, and may be claimed by
332 presenting to the seller a properly executed exemption certifi-
333 cate;

334 (34) Sales of aircraft repair, remodeling and maintenance
335 services when the services are to an aircraft operated by a
336 certified or licensed carrier of persons or property, or by a
337 governmental entity, or to an engine or other component part of
338 an aircraft operated by a certificated or licensed carrier of

339 persons or property, or by a governmental entity and sales of
340 tangible personal property that is permanently affixed or
341 permanently attached as a component part of an aircraft owned
342 or operated by a certificated or licensed carrier of persons or
343 property, or by a governmental entity, as part of the repair,
344 remodeling or maintenance service and sales of machinery,
345 tools or equipment, directly used or consumed exclusively in
346 the repair, remodeling or maintenance of aircraft, aircraft
347 engines or aircraft component parts, for a certificated or
348 licensed carrier of persons or property, or for a governmental
349 entity;

350 (35) Charges for memberships or services provided by
351 health and fitness organizations relating to personalized fitness
352 programs;

353 (36) Sales of services by individuals who baby-sit for a
354 profit: *Provided*, That the gross receipts of the individual from
355 the performance of baby-sitting services do not exceed five
356 thousand dollars in a taxable year;

357 (37) Sales of services after the thirtieth day of June, one
358 thousand nine hundred ninety-seven, by public libraries or by
359 libraries at academic institutions or by libraries at institutions
360 of higher learning;

361 (38) Commissions received after the thirtieth day of June,
362 one thousand nine hundred ninety-seven, by a manufacturer's
363 representative;

364 (39) Sales of primary opinion research services after the
365 thirtieth day of June, one thousand nine hundred ninety-seven,
366 when:

367 (A) The services are provided to an out-of-state client;

368 (B) The results of the service activities, including, but not
369 limited to, reports, lists of focus group recruits and compilation
370 of data are transferred to the client across state lines by mail,
371 wire or other means of interstate commerce, for use by the
372 client outside the state of West Virginia; and

373 (C) The transfer of the results of the service activities is an
374 indispensable part of the overall service.

375 For the purpose of this subdivision, the term “primary
376 opinion research” means original research in the form of
377 telephone surveys, mall intercept surveys, focus group research,
378 direct mail surveys, personal interviews and other data collec-
379 tion methods commonly used for quantitative and qualitative
380 opinion research studies;

381 (40) Sales of property or services after the thirtieth day of
382 June, one thousand nine hundred ninety-seven, to persons
383 within the state when those sales are for the purposes of the
384 production of value-added products: *Provided*, That the
385 exemption granted in this subdivision applies only to services,
386 equipment, supplies and materials directly used or consumed by
387 those persons engaged solely in the production of value-added
388 products: *Provided, however*, That this exemption may not be
389 claimed by any one purchaser for more than five consecutive
390 years, except as otherwise permitted in this section.

391 For the purpose of this subdivision, the term “value-added
392 product” means the following products derived from processing
393 a raw agricultural product, whether for human consumption or
394 for other use: For purposes of this subdivision, the following
395 enterprises qualify as processing raw agricultural products into
396 value-added products: Those engaged in the conversion of:

397 (A) Lumber into furniture, toys, collectibles and home
398 furnishings;

399 (B) Fruits into wine;

400 (C) Honey into wine;

401 (D) Wool into fabric;

402 (E) Raw hides into semifinished or finished leather prod-
403 ucts;

404 (F) Milk into cheese;

405 (G) Fruits or vegetables into a dried, canned or frozen
406 product;

407 (H) Feeder cattle into commonly accepted slaughter
408 weights;

409 (I) Aquatic animals into a dried, canned, cooked or frozen
410 product; and

411 (J) Poultry into a dried, canned, cooked or frozen product;

412 (41) After the thirtieth day of June, one thousand nine
413 hundred ninety-seven, sales of music instructional services by
414 a music teacher and artistic services or artistic performances of
415 an entertainer or performing artist pursuant to a contract with
416 the owner or operator of a retail establishment, restaurant, inn,
417 bar, tavern, sports or other entertainment facility or any other
418 business location in this state in which the public or a limited
419 portion of the public may assemble to hear or see musical
420 works or other artistic works be performed for the enjoyment of
421 the members of the public there assembled when the amount
422 paid by the owner or operator for the artistic service or artistic
423 performance does not exceed three thousand dollars: *Provided,*
424 That nothing contained herein may be construed to deprive
425 private social gatherings, weddings or other private parties from
426 asserting the exemption set forth in this subdivision. For the

427 purposes of this exemption, artistic performance or artistic
428 service means and is limited to the conscious use of creative
429 power, imagination and skill in the creation of aesthetic
430 experience for an audience present and in attendance and
431 includes, and is limited to, stage plays, musical performances,
432 poetry recitations and other readings, dance presentation,
433 circuses and similar presentations and does not include the
434 showing of any film or moving picture, gallery presentations of
435 sculptural or pictorial art, nude or strip show presentations,
436 video games, video arcades, carnival rides, radio or television
437 shows or any video or audio taped presentations or the sale or
438 leasing of video or audio tapes, airshows, or any other public
439 meeting, display or show other than those specified herein:
440 *Provided, however,* That nothing contained herein may be
441 construed to exempt the sales of tickets from the tax imposed in
442 this article. The state tax commissioner shall propose a legisla-
443 tive rule pursuant to article three, chapter twenty-nine-a of this
444 code establishing definitions and eligibility criteria for asserting
445 this exemption which is not inconsistent with the provisions set
446 forth herein: *Provided further,* That nude dancers or strippers
447 may not be considered as entertainers for the purposes of this
448 exemption;

449 (42) After the thirtieth day of June, one thousand nine
450 hundred ninety-seven, charges to a member by a membership
451 association or organization which is exempt from paying
452 federal income taxes under Section 501(c)(3) or (c)(6) of the
453 Internal Revenue Code of 1986, as amended, for membership
454 in the association or organization, including charges to mem-
455 bers for newsletters prepared by the association or organization
456 for distribution primarily to its members, charges to members
457 for continuing education seminars, workshops, conventions,
458 lectures or courses put on or sponsored by the association or
459 organization, including charges for related course materials
460 prepared by the association or organization or by the speaker or
461 speakers for use during the continuing education seminar,

462 workshop, convention, lecture or course, but not including any
463 separate charge or separately stated charge for meals, lodging,
464 entertainment or transportation taxable under this article:
465 *Provided*, That the association or organization pays the tax
466 imposed by this article on its purchases of meals, lodging,
467 entertainment or transportation taxable under this article for
468 which a separate or separately stated charge is not made. A
469 membership association or organization which is exempt from
470 paying federal income taxes under Section 501(c)(3) or (c)(6)
471 of the Internal Revenue Code of 1986, as amended, may elect
472 to pay the tax imposed under this article on the purchases for
473 which a separate charge or separately stated charge could apply
474 and not charge its members the tax imposed by this article or
475 the association or organization may avail itself of the exemption
476 set forth in subdivision (9) of this subsection relating to
477 purchases of tangible personal property for resale and then
478 collect the tax imposed by this article on those items from its
479 member;

480 (43) Sales of governmental services or governmental
481 materials after the thirtieth day of June, one thousand nine
482 hundred ninety-seven, by county assessors, county sheriffs,
483 county clerks or circuit clerks in the normal course of local
484 government operations;

485 (44) Direct or subscription sales by the division of natural
486 resources of the magazine currently entitled "Wonderful West
487 Virginia" and by the division of culture and history of the
488 magazine currently entitled "Goldenseal" and the journal
489 currently entitled "West Virginia History";

490 (45) Sales of soap to be used at car wash facilities; and

491 (46) Commissions received by a travel agency from an out-
492 of-state vendor.

493 (b) *Refundable exemptions.* — Any person having a right or
494 claim to any exemption set forth in this subsection shall first
495 pay to the vendor the tax imposed by this article and then apply
496 to the tax commissioner for a refund or credit, or as provided in
497 section nine-d of this article, give to the vendor his or her West
498 Virginia direct pay permit number. The following sales of
499 tangible personal property and services are exempt from tax as
500 provided in this subsection:

501 (1) Sales of property or services to bona fide charitable
502 organizations who make no charge whatsoever for the services
503 they render: *Provided*, That the exemption granted in this
504 subdivision applies only to services, equipment, supplies, food,
505 meals and materials directly used or consumed by these
506 organizations, and does not apply to purchases of gasoline or
507 special fuel;

508 (2) Sales of services, machinery, supplies and materials
509 directly used or consumed in the activities of manufacturing,
510 transportation, transmission, communication, production of
511 natural resources, gas storage, generation or production or
512 selling electric power, provision of a public utility service or the
513 operation of a utility service or the operation of a utility
514 business, in the businesses or organizations named in this
515 subdivision and does not apply to purchases of gasoline or
516 special fuel;

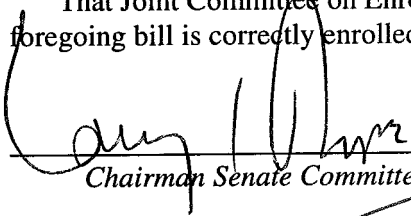
517 (3) Sales of property or services to nationally chartered
518 fraternal or social organizations for the sole purpose of free
519 distribution in public welfare or relief work: *Provided*, That
520 sales of gasoline and special fuel are taxable;

521 (4) Sales and services, fire fighting or station house
522 equipment, including construction and automotive, made to any
523 volunteer fire department organized and incorporated under the

524 laws of the state of West Virginia: *Provided*, That sales of
525 gasoline and special fuel are taxable; and

526 (5) Sales of building materials or building supplies or other
527 property to an organization qualified under Section 501(c)(3) or
528 (c)(4) of the Internal Revenue Code of 1986, as amended,
529 which are to be installed in, affixed to or incorporated by the
530 organization or its agent into real property or into a building or
531 structure which is or will be used as permanent low-income
532 housing, transitional housing, an emergency homeless shelter,
533 a domestic violence shelter or an emergency children and youth
534 shelter if the shelter is owned, managed, developed or operated
535 by an organization qualified under Section 501(c)(3) or (c)(4)
536 of the Internal Revenue Code of 1986, as amended.

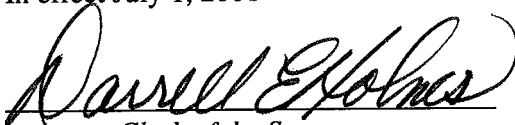
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

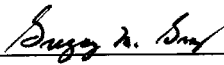

Chairman Senate Committee

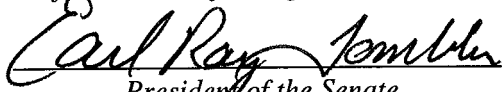

Chairman House Committee

Originating in the House.

In effect July 1, 2001

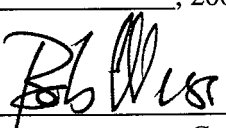

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 17th
day of April, 2001.


Governor

PRESENTED TO THE

GOVERNOR

Date 4/24/01

Time 12:45 pm