By Delegates Nelson, Householder, Shott, Ellington, Atkinson, Jennings, Sypolt, Hartman, Campbell, Cooper and Cowles

[Passed March 1, 2019; in effect ninety days from passage.]
WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

ENROLLED

House Bill 2829

BY DELEGATES NELSON, HOUSEHOLDER, SHOTT, ELLINGTON, ATKINSON, JENNINGS, SYPOLT, HARTMAN, CAMPBELL, COOPER AND COWLES

[Passed March 1, 2019; in effect ninety days from passage.]
AN ACT to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended, relating to termination and expiration of the taxes imposed upon persons exercising the privilege of engaging or continuing within this state in the business of severing, extracting, reducing to possession and producing for sale, profit or commercial use limestone or sandstone on and after July 1, 2019.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

§11-13A-3. Imposition of tax on privilege of severing coal; reduction of severance rate for coal mined by underground methods based on seam thickness; termination of severance tax on healthcare services; termination of severance taxes on limestone and sandstone.

(a) Imposition of tax. — Upon every person exercising the privilege of engaging or continuing within this state in the business of severing, extracting, reducing to possession and producing for sale, profit or commercial use coal, limestone or sandstone, or in the business of furnishing certain health care services, there is hereby levied and shall be collected from every person exercising such privilege an annual privilege tax.

(b) Rate and measure of tax. — Subject to the provisions of §11-13A-3(g) of this code, the tax imposed in §11-13A-3(a) of this code shall be five percent of the gross value of the natural resource produced or the health care service provided, as shown by the gross income derived from the sale or furnishing thereof by the producer or the provider of the health care service, except as otherwise provided in this article. In the case of coal, this five percent rate of tax includes the thirty-five one hundredths of one percent additional severance tax on coal imposed by the state for the benefit of counties and municipalities as provided in §11-13A-6 of this code.

(c) “Certain health care services” defined. — For purposes of this section, the term “certain health care services” means, and is limited to, behavioral health services.
(d) Tax in addition to other taxes. — The tax imposed by this section shall apply to all persons severing or processing, or both severing and processing, in this state natural resources enumerated in §11-13A-3(a) of this code and to all persons providing certain health care services in this state as enumerated in §11-13A-3(c) of this code and shall be in addition to all other taxes imposed by law.

(e) Effective date. — This section, as amended in 1993, shall apply to gross proceeds derived after May 31, 1993. The language of this section, as in effect on January 1, 1993, shall apply to gross proceeds derived prior to June 1, 1993 and, with respect to such gross proceeds, shall be fully and completely preserved.

(f) Reduction of severance tax rate. — For tax years beginning after the effective date of this subsection, any person exercising the privilege of engaging within this state in the business of severing coal for the purposes provided in §11-13A-3(a) of this code shall be allowed a reduced rate of tax on coal mined by underground methods in accordance with the following:

(1) For coal mined by underground methods from seams with an average thickness of 37 inches to 45 inches, the tax imposed in §11-13A-3(a) of this code shall be two percent of the gross value of the coal produced. For coal mined by underground methods from seams with an average thickness of less than 37 inches, the tax imposed in §11-13A-3(a) of this code shall be one percent of the gross value of the coal produced. Gross value is determined from the sale of the mined coal by the producer. This rate of tax includes the thirty-five one hundredths of one percent additional severance tax imposed by the state for the benefit of counties and municipalities as provided in §11-13A-6 of this code.

(2) This reduced rate of tax applies to any new underground mine producing coal after the effective date of this subsection, from seams of less than 45 inches in average thickness or any existing mine that has not produced coal from seams 45 inches or less in thickness in the 180 days immediately preceding the effective date of this subsection.
(3) The seam thickness shall be based on the weighted average isopach mapping of actual coal thickness by mine as certified by a professional engineer.

(g)(1) Termination and expiration of the behavioral health severance and business privilege tax. — The tax imposed upon providers of health care services under the provisions of this article shall expire, terminate and cease to be imposed with respect to privileges exercised on or after July 1, 2016. Expiration of the tax as provided in this subsection shall not relieve any person from payment of any tax imposed with respect to privileges exercised before the expiration date.

(2) Refunds made. — The Tax Commissioner will issue a requisition on the Treasury for any amount finally, administratively or judicially determined to be an overpayment of the tax terminated under this subsection. The Auditor shall issue a warrant on the Treasurer for any refund requisitioned under this subsection payable to the taxpayer entitled to the refund, and the Treasurer shall pay the warrant out of the fund into which the amount refunded was originally paid.

(h) Termination and expiration of the privilege tax on limestone or sandstone. — The taxes imposed under this section for persons exercising the privilege of engaging or continuing within this state in the business of severing, extracting, reducing to possession and producing for sale, profit or commercial use limestone or sandstone shall cease, terminate and be of no further force or effect on and after July 1, 2019. Termination of the taxes imposed under this section do not relieve any person of any liability or duty to pay tax imposed under this article with respect to privileges exercised before the effective date of the termination.
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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]
Chairman, House Committee
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

[Signatures]
Clerk of the House of Delegates
Clerk of the Senate
Speaker of the House of Delegates
President of the Senate

The within is approved this the 27th day of March, 2019.

[Signature]
Governor
PRESENTED TO THE GOVERNOR

MAR 8 2019

Time 2:04 pm