

FILED
2002 JUN 21 P 4: 25
WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND EXTRAORDINARY SESSION, 2002

ENROLLED

House Bill No. 203

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

Passed June 11, 2002

In Effect August 1, 2002

FILED

2002 JUN 21 P 4:28

WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

H. B. 203

(BY MR. SPEAKER, MR. KISS, AND DELEGATE TRUMP)

[BY REQUEST OF THE EXECUTIVE]

[Passed June 11, 2002; in effect August 1, 2002.]

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 consumers sales and service tax sales of food and tangible personal property and services by volunteer fire departments and rescue squads that are exempt from federal income taxes under section 501(c)(3) or (4) of the United States Internal Revenue Code of 1986, as amended, during fund raising activities conducted after specified date, when the purpose of the fund raising activity is to obtain revenue for functions and activities of the department or squad and revenue so raised is exempt from federal income tax and actually expended for that purpose.

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:

ARTICLE 15. CONSUMERS SALES AND SERVICE 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 exemp-
3 tion set forth in this subsection may, in lieu of paying the tax
4 imposed by this article and filing a claim for refund, execute
5 a 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 exemp-
10 tions certificates are not required. The following sales of
11 tangible personal property and services are exempt as
12 provided in this 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
18 the West Virginia department of education and the arts, the
19 board of trustees of the university system of West Virginia
20 or the board of directors for colleges located in this state;

21 (3) Sales of property or services to this state, its institu-
22 tions or subdivisions, governmental units, institutions or
23 subdivisions of other states: *Provided*, That the law of the
24 other state provides the same exemption to governmental
25 units or subdivisions of this state and to the United States,

26 including agencies of federal, state or local governments for
27 distribution in public 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
31 or like tax;

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

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

45 (A) A church or a convention or association of churches
46 as defined in Section 170 of the Internal Revenue Code of
47 1986, as amended;

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

52 (C) A corporation or organization which annually
53 receives more than one half of its support from any combi-

54 nation of gifts, grants, direct or indirect charitable contribu-
55 tions or membership fees;

56 (D) An organization which has no paid employees and
57 its gross income from fund raisers, less reasonable and
58 necessary expenses incurred to raise the gross income (or
59 the tangible personal property or services purchased with
60 the net income), is donated to an organization which is
61 exempt from income taxes under Section 501(c)(3) or (c)(4)
62 of the Internal Revenue Code of 1986, as amended;

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

70 (F) For purposes of this subsection:

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

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

73 (II) Gross receipts from fund raisers which include
74 receipts from admissions, sales of merchandise, perfor-
75 mance of services or furnishing of facilities in any activity
76 which is not an unrelated trade or business within the
77 meaning of Section 513 of the Internal Revenue Code of
78 1986, as amended;

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

82 (IV) Gross investment income as defined in Section
83 509(e) of the Internal Revenue Code of 1986, as amended;

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

87 (VI) The value of services or facilities (exclusive of
88 services or facilities generally furnished to the public
89 without charge) furnished by a governmental unit referred
90 to in Section 170(c)(1) of the Internal Revenue Code of
91 1986, as amended, to an organization without charge. This
92 term does not include any gain from the sale or other
93 disposition of property which would be considered as gain
94 from the sale or exchange of a capital asset, or the value of
95 an exemption from any federal, state or local tax or any
96 similar benefit;

97 (ii) The term "charitable contribution" means a contribu-
98 tion or gift to or for the use of a corporation or organization,
99 described in Section 170(c)(2) of the Internal Revenue Code
100 of 1986, as amended; and

101 (iii) The term "membership fee" does not include any
102 amounts paid for tangible personal property or specific
103 services rendered to members by the corporation or organi-
104 zation;

105 (G) The exemption allowed by this subdivision does not
106 apply to sales of gasoline or special fuel or to sales of
107 tangible personal property or services to be used or con-
108 sumed in the generation of unrelated business income as
109 defined in Section 513 of the Internal Revenue Code of
110 1986, as amended. The provisions of this subdivision apply
111 to sales made after the thirtieth day of June, one thousand

112 nine hundred eighty-nine: *Provided*, That the exemption
113 granted in this subdivision applies only to services, equip-
114 ment, supplies and materials used or consumed in the
115 activities for which the organizations qualify as tax exempt
116 organizations under the Internal Revenue Code and does not
117 apply to purchases of gasoline or special fuel;

118 (7) An isolated transaction in which any taxable service
119 or any tangible personal property is sold, transferred,
120 offered for sale or delivered by the owner of the property or
121 by his or her representative for the owner's account, the
122 sale, transfer, offer for sale or delivery not being made in the
123 ordinary course of repeated and successive transactions of
124 like character by the owner or on his or her account by the
125 representative: *Provided*, That nothing contained in this
126 subdivision may be construed to prevent an owner who
127 sells, transfers or offers for sale tangible personal property
128 in an isolated transaction through an auctioneer from
129 availing himself or herself of the exemption provided in this
130 subdivision, regardless of where the isolated sale takes
131 place. The tax commissioner may propose a legislative rule
132 for promulgation pursuant to article three, chapter
133 twenty-nine-a of this code which he or she considers
134 necessary for the efficient administration of this exemption;

135 (8) Sales of tangible personal property or of any taxable
136 services rendered for use or consumption in connection with
137 the commercial production of an agricultural product the
138 ultimate sale of which is subject to the tax imposed by this
139 article or which would have been subject to tax under this
140 article: *Provided*, That sales of tangible personal property
141 and services to be used or consumed in the construction of
142 or permanent improvement to real property and sales of
143 gasoline and special fuel are not exempt: *Provided, how-*

144 *ever*, That nails and fencing may not be considered as
145 improvements to real property;

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

157 (10) Sales of newspapers when delivered to consumers
158 by route carriers;

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

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

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

165 (14) Casual and occasional sales of property or services
166 not conducted in a repeated manner or in the ordinary
167 course of repetitive and successive transactions of like
168 character by a corporation or organization which is exempt
169 from tax under subdivision (6) of this subsection on its
170 purchases of tangible personal property or services:

171 (A) For purposes of this subdivision, the term "casual
172 and occasional sales not conducted in a repeated manner or

173 in the ordinary course of repetitive and successive transac-
174 tions of like character” means sales of tangible personal
175 property or services at fund raisers sponsored by a corpora-
176 tion or organization which is exempt, under subdivision (6)
177 of this subsection, from payment of the tax imposed by this
178 article on its purchases, when the fund raisers are of limited
179 duration and are held no more than six times during any
180 twelve-month period and “limited duration” means no more
181 than eighty-four consecutive hours; and

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

185 (15) Sales of property or services to a school which has
186 approval from the board of trustees of the university system
187 of West Virginia or the board of directors of the state college
188 system to award degrees, which has its principal campus in
189 this state, and which is exempt from federal and state
190 income taxes under Section 501(c)(3) of the Internal
191 Revenue Code of 1986, as amended: *Provided*, That sales
192 of gasoline and special fuel are taxable;

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

197 (17) Sales of lottery tickets and materials by licensed
198 lottery sales agents and lottery retailers authorized by the
199 state lottery commission, under the provisions of article
200 twenty-two, chapter twenty-nine of this code;

201 (18) Leases of motor vehicles titled pursuant to the
202 provisions of article three, chapter seventeen-a of this code

203 to lessees for a period of thirty or more consecutive days.
204 This exemption applies to leases executed on or after the
205 first day of July, one thousand nine hundred eighty-seven,
206 and to payments under long-term leases executed before
207 that date for months of the lease beginning on or after that
208 date;

209 (19) Notwithstanding the provisions of section eighteen
210 of this article or any other provision of this article to the
211 contrary, sales of propane to consumers for poultry house
212 heating purposes, with any seller to the consumer who may
213 have prior paid the tax in his or her price, to not pass on the
214 same to the consumer, but to make application and receive
215 refund of the tax from the tax commissioner pursuant to
216 rules which are promulgated after being proposed for
217 legislative approval in accordance with chapter twenty-nine-
218 a of this code by the tax commissioner;

219 (20) Any sales of tangible personal property or services
220 purchased after the thirtieth day of September, one thousand
221 nine hundred eighty-seven, and lawfully paid for with food
222 stamps pursuant to the federal food stamp program codified
223 in 7 U.S.C. §2011 et seq., as amended, or with drafts issued
224 through the West Virginia special supplement food program
225 for women, infants and children codified in 42 U.S.C.
226 §1786;

227 (21) Sales of tickets for activities sponsored by elemen-
228 tary and secondary schools located within this state;

229 (22) Sales of electronic data processing services and
230 related software: *Provided*, That, for the purposes of this
231 subdivision, "electronic data processing services" means:
232 (A) The processing of another's data, including all processes
233 incident to processing of data such as keypunching, key-

234 stroke verification, rearranging or sorting of previously
235 documented data for the purpose of data entry or automatic
236 processing and changing the medium on which data is
237 sorted, whether these processes are done by the same person
238 or several persons; and (B) providing access to computer
239 equipment for the purpose of processing data or examining
240 or acquiring data stored in or accessible to the computer
241 equipment;

242 (23) Tuition charged for attending educational summer
243 camps;

244 (24) Dispensing of services performed by one corpora-
245 tion, partnership or limited liability company for another
246 corporation, partnership or limited liability company when
247 the entities are members of the same controlled group or are
248 related taxpayers as defined in Section 267 of the Internal
249 Revenue Code. "Control" means ownership, directly or
250 indirectly, of stock, equity interests or membership interests
251 possessing fifty percent or more of the total combined
252 voting power of all classes of the stock of a corporation,
253 equity interests of a partnership or membership interests of
254 a limited liability company entitled to vote or ownership,
255 directly or indirectly, of stock, equity interests or member-
256 ship interests possessing fifty percent or more of the value
257 of the corporation, partnership or limited liability company;

258 (25) Food for the following are exempt:

259 (A) Food purchased or sold by a public or private
260 school, school-sponsored student organizations or school-
261 sponsored parent-teacher associations to students enrolled
262 in the school or to employees of the school during normal
263 school hours; but not those sales of food made to the
264 general public;

265 (B) Food purchased or sold by a public or private
266 college or university or by a student organization officially
267 recognized by the college or university to students enrolled
268 at the college or university when the sales are made on a
269 contract basis so that a fixed price is paid for consumption
270 of food products for a specific period of time without
271 respect to the amount of food product actually consumed by
272 the particular individual contracting for the sale and no
273 money is paid at the time the food product is served or
274 consumed;

275 (C) Food purchased or sold by a charitable or private
276 nonprofit organization, a nonprofit organization or a
277 governmental agency under a program to provide food to
278 low-income persons at or below cost;

279 (D) Food sold by a charitable or private nonprofit
280 organization, a nonprofit organization or a governmental
281 agency under a program operating in West Virginia for a
282 minimum of five years to provide food at or below cost to
283 individuals who perform a minimum of two hours of
284 community service for each unit of food purchased from the
285 organization;

286 (E) Food sold in an occasional sale by a charitable or
287 nonprofit organization, including volunteer fire departments
288 and rescue squads, if the purpose of the sale is to obtain
289 revenue for the functions and activities of the organization
290 and the revenue obtained is actually expended for that
291 purpose;

292 (F) Food sold by any religious organization at a social or
293 other gathering conducted by it or under its auspices, if the
294 purpose in selling the food is to obtain revenue for the
295 functions and activities of the organization and the revenue

296 obtained from selling the food is actually used in carrying
297 on those functions and activities: *Provided*, That purchases
298 made by the organizations are not exempt as a purchase for
299 resale;

300 (G) Food sold after the thirty-first day of July, two
301 thousand two, by volunteer fire departments and rescue
302 squads that are exempt from federal income taxes under
303 section 501(c)(3) or (c)(4) of the Internal Revenue Code of
304 1986, as amended, when the purpose of the sale is to obtain
305 revenue for the functions and activities of the organization
306 and the revenue obtained is exempt from federal income tax
307 and actually expended for that purpose;

308 (26) Sales of food by little leagues, midget football
309 leagues, youth football or soccer leagues, band boosters or
310 other school or athletic booster organizations supporting
311 activities for grades kindergarten through twelve and similar
312 types of organizations, including scouting groups and
313 church youth groups, if the purpose in selling the food is to
314 obtain revenue for the functions and activities of the
315 organization and the revenues obtained from selling the
316 food is actually used in supporting or carrying on functions
317 and activities of the groups: *Provided*, That the purchases
318 made by the organizations are not exempt as a purchase for
319 resale;

320 (27) Charges for room and meals by fraternities and
321 sororities to their members: *Provided*, That the purchases
322 made by a fraternity or sorority are not exempt as a pur-
323 chase for resale;

324 (28) Sales of or charges for the transportation of passen-
325 gers in interstate commerce;

326 (29) Sales of tangible personal property or services to
327 any person which this state is prohibited from taxing under
328 the laws of the United States or under the constitution of this
329 state;

330 (30) Sales of tangible personal property or services to
331 any person who claims exemption from the tax imposed by
332 this article or article fifteen-a of this chapter pursuant to the
333 provision of any other chapter of this code;

334 (31) Charges for the services of opening and closing a
335 burial lot;

336 (32) Sales of livestock, poultry or other farm products in
337 their original state by the producer of the livestock, poultry
338 or other farm products or a member of the producer's
339 immediate family who is not otherwise engaged in making
340 retail sales of tangible personal property; and sales of
341 livestock sold at public sales sponsored by breeders or
342 registry associations or livestock auction markets: *Provided,*
343 That the exemptions allowed by this subdivision apply to
344 sales made on or after the first day of July, one thousand
345 nine hundred ninety, and may be claimed without present-
346 ing or obtaining exemption certificates: *Provided, however,*
347 That the farmer shall maintain adequate records;

348 (33) Sales of motion picture films to motion picture
349 exhibitors for exhibition if the sale of tickets or the charge
350 for admission to the exhibition of the film is subject to the
351 tax imposed by this article and sales of coin-operated video
352 arcade machines or video arcade games to a person engaged
353 in the business of providing the machines to the public for
354 a charge upon which the tax imposed by this article is
355 remitted to the tax commissioner: *Provided,* That the
356 exemption provided in this subdivision applies to sales

357 made on or after the first day of July, one thousand nine
358 hundred ninety, and may be claimed by presenting to the
359 seller a properly executed exemption certificate;

360 (34) Sales of aircraft repair, remodeling and mainte-
361 nance services when the services are to an aircraft operated
362 by a certified or licensed carrier of persons or property, or
363 by a governmental entity, or to an engine or other compo-
364 nent part of an aircraft operated by a certificated or licensed
365 carrier of persons or property, or by a governmental entity
366 and sales of tangible personal property that is permanently
367 affixed or permanently attached as a component part of an
368 aircraft owned or operated by a certificated or licensed
369 carrier of persons or property, or by a governmental entity,
370 as part of the repair, remodeling or maintenance service and
371 sales of machinery, tools or equipment, directly used or
372 consumed exclusively in the repair, remodeling or mainte-
373 nance of aircraft, aircraft engines or aircraft component
374 parts, for a certificated or licensed carrier of persons or
375 property, or for a governmental entity;

376 (35) Charges for memberships or services provided by
377 health and fitness organizations relating to personalized
378 fitness programs;

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

383 (37) Sales of services after the thirtieth day of June, one
384 thousand nine hundred ninety-seven, by public libraries or
385 by libraries at academic institutions or by libraries at
386 institutions of higher learning;

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

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

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

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

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

401 For the purpose of this subdivision, the term "primary
402 opinion research" means original research in the form of
403 telephone surveys, mall intercept surveys, focus group
404 research, direct mail surveys, personal interviews and other
405 data collection methods commonly used for quantitative and
406 qualitative opinion research studies;

407 (40) Sales of property or services after the thirtieth day
408 of June, one thousand nine hundred ninety-seven, to
409 persons within the state when those sales are for the pur-
410 poses of the production of value-added products: *Provided*,
411 That the exemption granted in this subdivision applies only
412 to services, equipment, supplies and materials directly used
413 or consumed by those persons engaged solely in the
414 production of value-added products: *Provided, however*,
415 That this exemption may not be claimed by any one pur-

416 chaser for more than five consecutive years, except as
417 otherwise permitted in this section.

418 For the purpose of this subdivision, the term “value-
419 added product” means the following products derived from
420 processing a raw agricultural product, whether for human
421 consumption or for other use: For purposes of this subdivi-
422 sion, the following enterprises qualify as processing raw
423 agricultural products into value-added products: Those
424 engaged in the conversion of:

425 (A) Lumber into furniture, toys, collectibles and home
426 furnishings;

427 (B) Fruits into wine;

428 (C) Honey into wine;

429 (D) Wool into fabric;

430 (E) Raw hides into semifinished or finished leather
431 products;

432 (F) Milk into cheese;

433 (G) Fruits or vegetables into a dried, canned or frozen
434 product;

435 (H) Feeder cattle into commonly accepted slaughter
436 weights;

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

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

441 (41) After the thirtieth day of June, one thousand nine
442 hundred ninety-seven, sales of music instructional services
443 by a music teacher and artistic services or artistic perfor-
444 mances of an entertainer or performing artist pursuant to a
445 contract with the owner or operator of a retail establishment,
446 restaurant, inn, bar, tavern, sports or other entertainment
447 facility or any other business location in this state in which
448 the public or a limited portion of the public may assemble to
449 hear or see musical works or other artistic works be per-
450 formed for the enjoyment of the members of the public there
451 assembled when the amount paid by the owner or operator
452 for the artistic service or artistic performance does not
453 exceed three thousand dollars: *Provided*, That nothing
454 contained herein may be construed to deprive private social
455 gatherings, weddings or other private parties from asserting
456 the exemption set forth in this subdivision. For the purposes
457 of this exemption, artistic performance or artistic service
458 means and is limited to the conscious use of creative power,
459 imagination and skill in the creation of aesthetic experience
460 for an audience present and in attendance and includes, and
461 is limited to, stage plays, musical performances, poetry
462 recitations and other readings, dance presentation, circuses
463 and similar presentations and does not include the showing
464 of any film or moving picture, gallery presentations of
465 sculptural or pictorial art, nude or strip show presentations,
466 video games, video arcades, carnival rides, radio or televi-
467 sion shows or any video or audio taped presentations or the
468 sale or leasing of video or audio tapes, airshows, or any
469 other public meeting, display or show other than those
470 specified herein: *Provided, however*, That nothing contained
471 herein may be construed to exempt the sales of tickets from
472 the tax imposed in this article. The state tax commissioner
473 shall propose a legislative rule pursuant to article three,
474 chapter twenty-nine-a of this code establishing definitions

475 and eligibility criteria for asserting this exemption which is
476 not inconsistent with the provisions set forth herein: *Pro-*
477 *vided further*, That nude dancers or strippers may not be
478 considered as entertainers for the purposes of this exemp-
479 tion;

480 (42) After the thirtieth day of June, one thousand nine
481 hundred ninety-seven, charges to a member by a member-
482 ship association or organization which is exempt from
483 paying federal income taxes under Section 501(c)(3) or
484 (c)(6) of the Internal Revenue Code of 1986, as amended,
485 for membership in the association or organization, including
486 charges to members for newsletters prepared by the associa-
487 tion or organization for distribution primarily to its mem-
488 bers, charges to members for continuing education semi-
489 nars, workshops, conventions, lectures or courses put on or
490 sponsored by the association or organization, including
491 charges for related course materials prepared by the associa-
492 tion or organization or by the speaker or speakers for use
493 during the continuing education seminar, workshop,
494 convention, lecture or course, but not including any separate
495 charge or separately stated charge for meals, lodging,
496 entertainment or transportation taxable under this article:
497 *Provided*, That the association or organization pays the tax
498 imposed by this article on its purchases of meals, lodging,
499 entertainment or transportation taxable under this article for
500 which a separate or separately stated charge is not made. A
501 membership association or organization which is exempt
502 from paying federal income taxes under Section 501(c)(3)
503 or (c)(6) of the Internal Revenue Code of 1986, as amended,
504 may elect to pay the tax imposed under this article on the
505 purchases for which a separate charge or separately stated
506 charge could apply and not charge its members the tax
507 imposed by this article or the association or organization

508 may avail itself of the exemption set forth in subdivision (9)
509 of this subsection relating to purchases of tangible personal
510 property for resale and then collect the tax imposed by this
511 article on those items from its member;

512 (43) Sales of governmental services or governmental
513 materials after the thirtieth day of June, one thousand nine
514 hundred ninety-seven, by county assessors, county sheriffs,
515 county clerks or circuit clerks in the normal course of local
516 government operations;

517 (44) Direct or subscription sales by the division of
518 natural resources of the magazine currently entitled "Won-
519 derful West Virginia" and by the division of culture and
520 history of the magazine currently entitled "Goldenseal" and
521 the journal currently entitled "West Virginia History";

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

523 (46) Commissions received by a travel agency from an
524 out-of-state vendor;

525 (47) The service of providing technical evaluations for
526 compliance with federal and state environmental standards
527 provided by environmental and industrial consultants who
528 have formal certification through the West Virginia depart-
529 ment of environmental protection or the West Virginia
530 bureau for public health or both. For purposes of this
531 exemption, the service of providing technical evaluations
532 for compliance with federal and state environmental stan-
533 dards includes those costs of tangible personal property
534 directly used in providing such services that are separately
535 billed to the purchaser of such services, and on which the
536 tax imposed by this article has previously been paid by the
537 service provider; and

538 (48) Sales of tangible personal property and services by
539 volunteer fire departments and rescue squads that are
540 exempt from federal income taxes under Section 501(c)(3)
541 or (c)(4) of the Internal Revenue Code of 1986, as amended,
542 during fund raising activities held after the thirty-first day of
543 July, two thousand two, if the sole purpose of the sale is to
544 obtain revenue for the functions and activities of the
545 organization and the revenue obtained is exempt from
546 federal income tax and actually expended for that purpose.

547 (b) *Refundable exemptions.* — Any person having a
548 right or claim to any exemption set forth in this subsection
549 shall first pay to the vendor the tax imposed by this article
550 and then apply to the tax commissioner for a refund or
551 credit, or as provided in section nine-d of this article, give to
552 the vendor his or her West Virginia direct pay permit
553 number. The following sales of tangible personal property
554 and services are exempt from tax as provided in this
555 subsection:

556 (1) Sales of property or services to bona fide charitable
557 organizations who make no charge whatsoever for the
558 services they render: *Provided*, That the exemption granted
559 in this subdivision applies only to services, equipment,
560 supplies, food, meals and materials directly used or con-
561 sumed by these organizations and does not apply to pur-
562 chases of gasoline or special fuel;

563 (2) Sales of services, machinery, supplies and materials
564 directly used or consumed in the activities of manufacturing,
565 transportation, transmission, communication, production of
566 natural resources, gas storage, generation or production or
567 selling electric power, provision of a public utility service or
568 the operation of a utility service or the operation of a utility
569 business, in the businesses or organizations named in this

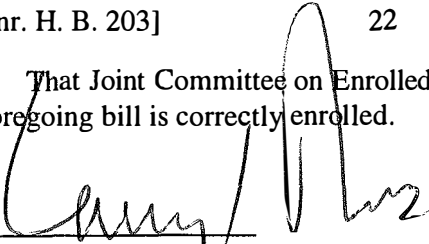
570 subdivision and does not apply to purchases of gasoline or
571 special fuel;


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

576 (4) Sales and services, firefighting or station house
577 equipment, including construction and automotive, made to
578 any volunteer fire department organized and incorporated
579 under the laws of the state of West Virginia: *Provided*, That
580 sales of gasoline and special fuel are taxable; and

581 (5) Sales of building materials or building supplies or
582 other property to an organization qualified under Section
583 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as
584 amended, which are to be installed in, affixed to or incorpo-
585 rated by the organization or its agent into real property or
586 into a building or structure which is or will be used as
587 permanent low-income housing, transitional housing, an
588 emergency homeless shelter, a domestic violence shelter or
589 an emergency children and youth shelter if the shelter is
590 owned, managed, developed or operated by an organization
591 qualified under Section 501(c)(3) or (c)(4) of the Internal
592 Revenue Code of 1986, as amended.

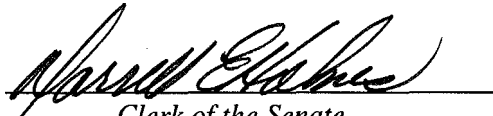
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

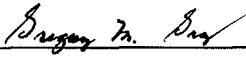

Chairman Senate Committee



Chairman House Committee

Originating in the House.

In effect August 1, 2002.



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 21st
day of June, 2002.


Governor

PRESENTED TO THE
GOVERNOR

DATE

6/9/02

TIME

11:50 am