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OFFICE OF THE VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR

**House Bill No. 4415**

(By Mr. Speaker, Mr. Kiss, and Delegates  
Mezzatesta, Michael and Williams)



Passed March 9, 2002

In Effect July 1, 2002

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## H. B. 4415

(BY MR. SPEAKER, MR. KISS, AND DELEGATES  
MEZZATESTA, MICHAEL AND WILLIAMS)

[Passed March 9, 2002; in effect July 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, all relating to exemptions from the consumers sales tax.

*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 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 (G) Food sold after the thirtieth day of June, two thousand  
286 two, by volunteer fire departments and rescue squads that are  
287 exempt from federal income taxes under Section 501(c)(3) or  
288 (c)(4) of the Internal Revenue Code of 1986, as amended, if the  
289 purpose of the sale is to obtain revenue for the functions and  
290 activities of the organization and the revenue obtained is  
291 actually expended for that purpose;

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

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

307 (28) Sales of or charges for the transportation of passengers  
308 in interstate commerce;

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

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

316 (31) Charges for the services of opening and closing a  
317 burial lot;

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

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

341 (34) Sales of aircraft repair, remodeling and maintenance  
342 services when the services are to an aircraft operated by a  
343 certified or licensed carrier of persons or property, or by a

344 governmental entity, or to an engine or other component part of  
345 an aircraft operated by a certificated or licensed carrier of  
346 persons or property, or by a governmental entity and sales of  
347 tangible personal property that is permanently affixed or  
348 permanently attached as a component part of an aircraft owned  
349 or operated by a certificated or licensed carrier of persons or  
350 property, or by a governmental entity, as part of the repair,  
351 remodeling or maintenance service and sales of machinery,  
352 tools or equipment, directly used or consumed exclusively in  
353 the repair, remodeling or maintenance of aircraft, aircraft  
354 engines or aircraft component parts, for a certificated or  
355 licensed carrier of persons or property, or for a governmental  
356 entity;

357 (35) Charges for memberships or services provided by  
358 health and fitness organizations relating to personalized fitness  
359 programs;

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

364 (37) Sales of services after the thirtieth day of June, one  
365 thousand nine hundred ninety-seven, by public libraries or by  
366 libraries at academic institutions or by libraries at institutions  
367 of higher learning;

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

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

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

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

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

382 For the purpose of this subdivision, the term “primary  
383 opinion research” means original research in the form of  
384 telephone surveys, mall intercept surveys, focus group research,  
385 direct mail surveys, personal interviews and other data collec-  
386 tion methods commonly used for quantitative and qualitative  
387 opinion research studies;

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

398 For the purpose of this subdivision, the term “value-added  
399 product” means the following products derived from processing  
400 a raw agricultural product, whether for human consumption or  
401 for other use: For purposes of this subdivision, the following  
402 enterprises qualify as processing raw agricultural products into  
403 value-added products: Those engaged in the conversion of:

404 (A) Lumber into furniture, toys, collectibles and home  
405 furnishings;

406 (B) Fruits into wine;

407 (C) Honey into wine;

408 (D) Wool into fabric;

409 (E) Raw hides into semifinished or finished leather prod-  
410 ucts;

411 (F) Milk into cheese;

412 (G) Fruits or vegetables into a dried, canned or frozen  
413 product;

414 (H) Feeder cattle into commonly accepted slaughter  
415 weights;

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

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

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



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

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

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

487 (43) Sales of governmental services or governmental  
488 materials after the thirtieth day of June, one thousand nine  
489 hundred ninety-seven, by county assessors, county sheriffs,  
490 county clerks or circuit clerks in the normal course of local  
491 government operations;

492 (44) Direct or subscription sales by the division of natural  
493 resources of the magazine currently entitled "Wonderful West  
494 Virginia" and by the division of culture and history of the  
495 magazine currently entitled "Goldenseal" and the journal  
496 currently entitled "West Virginia History";

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

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

500 (47) All fund raising activities of volunteer fire departments  
501 and rescue squads that are exempt from federal income taxes  
502 under Section 501(c)(3) or (c)(4) of the Internal Revenue Code  
503 of 1986, as amended, held after the thirtieth day of June, two  
504 thousand two, if the sole purpose of the sale is to obtain revenue  
505 for the functions and activities of the organization and the  
506 revenue obtained is actually expended for that purpose;

507 (48) Sales of all gallons of propane gas for any church,  
508 religious sect, society or denomination or for the use or benefit  
509 of any church, religious sect, society or denomination as  
510 consumption use; and

511 (49) Beginning on the first day of January, two thousand  
512 three, and on that date each year thereafter, the consumers sales  
513 and service tax imposed by this article on the sale of propane  
514 gas for home heating and cooking use shall be reduced at a rate  
515 of one percent until this tax on the sale of propane gas for home  
516 heating and cooking use is eliminated. The tax commissioner  
517 shall propose rules for legislative approval in accordance with  
518 the provisions of article three, chapter twenty-nine-a of this  
519 code to implement this subsection and to ensure that effective  
520 the first day of January, two thousand seven, the sales or  
521 services taxes imposed on the sale of propane gas for home  
522 heating and cooking use is eliminated.

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

531 (1) Sales of property or services to bona fide charitable  
532 organizations who make no charge whatsoever for the services  
533 they render: *Provided*, That the exemption granted in this  
534 subdivision applies only to services, equipment, supplies, food,  
535 meals and materials directly used or consumed by these  
536 organizations, and does not apply to purchases of gasoline or  
537 special fuel;

538 (2) Sales of services, machinery, supplies and materials  
539 directly used or consumed in the activities of manufacturing,  
540 transportation, transmission, communication, production of  
541 natural resources, gas storage, generation or production or  
542 selling electric power, provision of a public utility service or the  
543 operation of a utility service or the operation of a utility  
544 business, in the businesses or organizations named in this  
545 subdivision and does not apply to purchases of gasoline or  
546 special fuel;

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

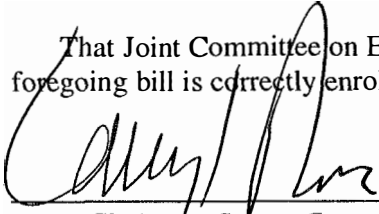
551 (4) Sales and services, fire fighting or station house  
552 equipment, including construction and automotive, made to any  
553 volunteer fire department organized and incorporated under the  
554 laws of the state of West Virginia: *Provided*, That sales of  
555 gasoline and special fuel are taxable; and

556 (5) Sales of building materials or building supplies or other  
557 property to an organization qualified under Section 501(c)(3) or  
558 (c)(4) of the Internal Revenue Code of 1986, as amended,  
559 which are to be installed in, affixed to or incorporated by the  
560 organization or its agent into real property or into a building or  
561 structure which is or will be used as permanent low-income  
562 housing, transitional housing, an emergency homeless shelter,

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563 a domestic violence shelter or an emergency children and youth  
564 shelter if the shelter is owned, managed, developed or operated  
565 by an organization qualified under Section 501(c)(3) or (c)(4)  
566 of the Internal Revenue Code of 1986, as amended.

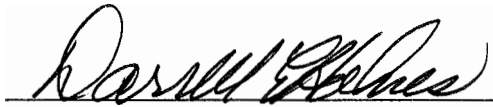
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
\_\_\_\_\_  
Chairman Senate Committee

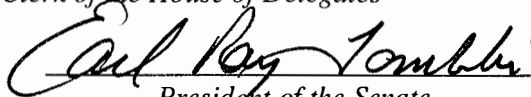
  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In effect July 1, 2002.

  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

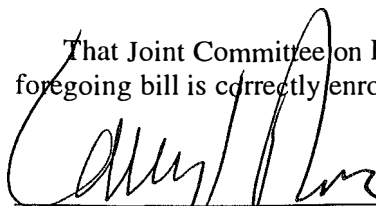
  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is disapproved this the 3  
day of April 2002.

  
\_\_\_\_\_  
Governor


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

  
\_\_\_\_\_  
Chairman Senate Committee

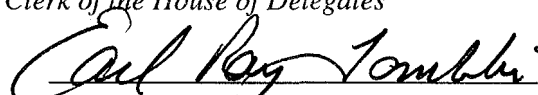
  
\_\_\_\_\_  
Chairman House Committee

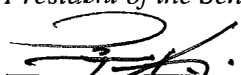
Originating in the House.

In effect July 1, 2002.


  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is disapproved this the 3  
day of April 2002.

  
\_\_\_\_\_  
Governor

DATE: 3/27/02

TIME: 10:15 AM

BY: [Signature]

TIME: 10:15 AM