

FILED

2005 SEP 28 P 4: 19

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FOURTH EXTRAORDINARY SESSION, 2005



ENROLLED

House Bill No. 401

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



Passed September 13, 2005

In Effect from Passage

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

E N R O L L E D

H. B. 401

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

[BY REQUEST OF THE EXECUTIVE]

[Passed September 13, 2005; in effect from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-3a; and to amend and reenact §11-15B-2 and §11-15B-2a of said code, all relating generally to consumers sales and use taxes on food and food ingredients intended for human consumption; reducing rate of tax on sales, purchases and uses of food and food ingredients to five percent beginning on specified date; defining food and food ingredients and certain other terms; providing that lower rate does not apply to sales, purchases and uses of prepared food; authorizing legislative and emergency rules; and specifying internal effective dates.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §11-15-3a; and that §11-15B-2 and §11-15B-2a of said code be amended and reenacted, all to read as follows:

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-3a. Rate of tax on food and food ingredients intended for human consumption; reduction of tax beginning January 1, 2006; exceptions; legislative, emergency and other rules.

1 (a) *Rate of tax on food and food ingredients.* — Notwith-
2 standing any provision of this article or article fifteen-a of this
3 chapter to the contrary, the rate of tax on sales, purchases and
4 uses of food and food ingredients intended for human consump-
5 tion after the thirty-first day of December, two thousand five,
6 shall be five percent of its sales price, as defined in section two,
7 article fifteen-b of this chapter.

8 (b) *Calculation of tax on fractional parts of a dollar.* — The
9 tax computation under this section shall be carried to the third
10 decimal place, and the tax rounded up to the next whole cent
11 whenever the third decimal place is greater than four and
12 rounded down to the lower whole cent whenever the third
13 decimal place is four or less. The seller may elect to compute
14 the tax due on a transaction on a per item basis or on an invoice
15 basis provided the method used is consistently used during the
16 reporting period.

17 (c) *Exceptions.* — The reduced rate of tax provided in this
18 section shall not apply to sales, purchases and uses by consum-
19 ers of “Prepared food,” as defined in article fifteen-b of this
20 chapter, which shall remain taxable at the general rate of tax
21 specified in section three of this article and section two, article
22 fifteen-a of this chapter.

23 (d) *Federal food stamp and women, infants and children*
24 *programs, other exemptions.*— Nothing in this section shall
25 affect application of the exemption from tax provided in section
26 nine of this article for food purchased by an eligible person
27 using food stamps, electronic benefits transfer cards or vouch-
28 ers issued by or pursuant to authorization of the United States
29 Department of Agriculture to individuals participating in the
30 federal food stamp program, by whatever name called, or the

31 women, infants, and children (WIC) program, or application of
32 any other exemption from tax set forth in this article or article
33 fifteen-a of this chapter.

34 (e) *Legislative rules; emergency rules.* — The Tax Commis-
35 sioner may promulgate legislative rules and emergency rules
36 explaining and implementing this section, which rules shall be
37 promulgated in accordance with the provisions of article three,
38 chapter twenty-nine-a of this code. The authority to promulgate
39 rules includes authority to amend or repeal those rules. If
40 proposed legislative rules for this section are filed in the State
41 Register before the fifteenth day of December, two thousand
42 five, those rules may be promulgated as emergency legislative
43 rules, as provided in article three of said chapter twenty-nine-a.

ARTICLE 15B. STREAMLINED SALES AND USE TAXES.

§11-15B-2. Definitions.

1 (a) *General.* — When used in this article and articles fifteen
2 and fifteen-a of this chapter, words defined in subsection (b) of
3 this section shall have the meanings ascribed to them in this
4 section, except in those instances where a different meaning is
5 distinctly expressed or the context in which the term is used
6 clearly indicates that a different meaning is intended by the
7 Legislature.

8 (b) *Terms defined.*

9 (1) “Agent” means a person appointed by a seller to
10 represent the seller before the member states.

11 (2) “Agreement” means the streamlined sales and use tax
12 agreement as defined in section two-a of this article.

13 (3) “Alcoholic beverages” means beverages that are
14 suitable for human consumption and contain one half of one
15 percent or more of alcohol by volume.

16 (4) “Bundled transaction” means the retail sale of two or
17 more products, except real property and services to real
18 property, where: (i) The products are otherwise distinct and
19 identifiable; and (ii) the products are sold for one nonitemized
20 price. A “bundled transaction” does not include the sale of any
21 products in which the “sales price” varies, or is negotiable,
22 based on the selection by the purchaser of the products included
23 in the transaction.

24 (A) “Distinct and identifiable products” does not include:

25 (i) Packaging – such as containers, boxes, sacks, bags, and
26 bottles – or other materials – such as wrapping, labels, tags, and
27 instruction guides – that accompany the “retail sale” of the
28 products and are incidental or immaterial to the “retail sale”
29 thereof. Examples of packaging that are incidental or immate-
30 rial include grocery sacks, shoeboxes, dry cleaning garment
31 bags and express delivery envelopes and boxes;

32 (ii) A product provided free of charge with the required
33 purchase of another product. A product is “provided free of
34 charge” if the “sales price” of the product purchased does not
35 vary depending on the inclusion of the product “provided free
36 of charge”; or

37 (iii) Items included in the member state’s definition of
38 “sales price,” as defined in this section.

39 (B) The term “one nonitemized price” does not include a
40 price that is separately identified by product on binding sales or
41 other supporting sales-related documentation made available to
42 the customer in paper or electronic form including, but not
43 limited to, an invoice, bill of sale, receipt, contract, service
44 agreement, lease agreement, periodic notice of rates and
45 services, rate card, or price list.

46 (C) A transaction that otherwise meets the definition of a
47 “bundled transaction,” as defined in this subdivision, is not a
48 “bundled transaction” if it is:

49 (i) The “retail sale” of tangible personal property and a
50 service where the tangible personal property is essential to the
51 use of the service, and is provided exclusively in connection
52 with the service, and the true object of the transaction is the
53 service; or

54 (ii) The “retail sale” of services where one service is
55 provided that is essential to the use or receipt of a second
56 service and the first service is provided exclusively in connec-
57 tion with the second service and the true object of the transac-
58 tion is the second service; or

59 (iii) A transaction that includes taxable products and
60 nontaxable products and the “purchase price” or “sales price”
61 of the taxable products is de minimis.

62 (I) “De minimis” means the seller’s “purchase price” or
63 “sales price” of the taxable products is ten percent or less of the
64 total “purchase price” or “sales price” of the bundled products.

65 (II) Sellers shall use either the “purchase price” or the
66 “sales price” of the products to determine if the taxable
67 products are de minimis. Sellers may not use a combination of
68 the “purchase price” and “sales price” of the products to
69 determine if the taxable products are de minimis.

70 (III) Sellers shall use the full term of a service contract to
71 determine if the taxable products are de minimis; or

72 (iv) A transaction that includes products taxable at the
73 general rate of tax and food or food ingredients taxable at a
74 lower rate of tax and the “purchase price” or “sales price” of the
75 products taxable at the general sales tax rate is de minimis.

76 (I) “De minimis” means the seller’s “purchase price” or
77 “sales price” of the products taxable at the general sales tax rate
78 is ten percent or less of the total “purchase price” or “sales
79 price” of the bundled products.

80 (II) Sellers shall use either the “purchase price” or the
81 “sales price” of the products to determine if the products
82 taxable at the general rate of tax are de minimis. Sellers may
83 not use a combination of the “purchase price” and “sales price”
84 of the products to determine if the products taxable at the
85 general rate of tax are de minimis.

86 (III) Sellers shall use the full term of a service contract to
87 determine if the products taxable at the general rate of tax are
88 de minimis; or

89 (v) The “retail sale” of exempt tangible personal property,
90 or food and food ingredients taxable at a lower rate of tax, and
91 tangible personal property taxable at the general rate of tax
92 where:

93 (I) The transaction includes “food and food ingredients”,
94 “drugs”, “durable medical equipment”, “mobility enhancing
95 equipment”, “prosthetic devices” all as defined in article
96 fifteen-b of this chapter; and

97 (II) Where the seller’s “purchase price” or “sales price” of
98 the taxable tangible personal property taxable at the general rate
99 of tax is fifty percent or less of the total “purchase price” or
100 “sales price” of the bundled tangible personal property. Sellers
101 may not use a combination of the “purchase price” and “sales
102 price” of the tangible personal property when making the fifty
103 percent determination for a transaction.

104 (5) “Candy” means a preparation of sugar, honey or other
105 natural or artificial sweeteners in combination with chocolate,
106 fruits, nuts or other ingredients or flavorings in the form of bars,

107 drops or pieces. “Candy” shall not include any preparation
108 containing flour and shall require no refrigeration.

109 (6) “Certified automated system” or “CAS” means software
110 certified under the agreement to calculate the tax imposed by
111 each jurisdiction on a transaction, determine the amount of tax
112 to remit to the appropriate state, and maintain a record of the
113 transaction.

114 (7) “Certified service provider” or “CSP” means an agent
115 certified under the agreement to perform all of the seller’s sales
116 tax functions.

117 (8) “Computer” means an electronic device that accepts
118 information in digital or similar form and manipulates the
119 information for a result based on a sequence of instructions.

120 (9) “Computer software” means a set of coded instructions
121 designed to cause a “computer” or automatic data processing
122 equipment to perform a task.

123 (10) “Delivered electronically” means delivered to the
124 purchaser by means other than tangible storage media.

125 (11) “Delivery charges” means charges by the seller of
126 personal property or services for preparation and delivery to a
127 location designated by the purchaser of personal property or
128 services including, but not limited to, transportation, shipping,
129 postage, handling, crating, and packing.

130 (12) “Dietary supplement” means any product, other than
131 “tobacco”, intended to supplement the diet that:

132 (A) Contains one or more of the following dietary ingredi-
133 ents:

134 (i) A vitamin;

135 (ii) A mineral;

136 (iii) A herb or other botanical;

137 (iv) An amino acid;

138 (v) A dietary substance for use by humans to supplement
139 the diet by increasing the total dietary intake; or

140 (vi) A concentrate, metabolite, constituent, extract or
141 combination of any ingredient described in subparagraph (i)
142 through (v) of this subdivision;

143 (B) Is intended for ingestion in tablet, capsule, powder,
144 softgel, gelcap, or liquid form, or if not intended for ingestion
145 in such a form, is not represented as conventional food and is
146 not represented for use as a sole item of a meal or of the diet;
147 and

148 (C) Is required to be labeled as a dietary supplement,
149 identifiable by the “Supplemental Facts” box found on the label
150 as required pursuant to 21 CFR §101.36, or in any successor
151 section of the code of federal regulations.

152 (13) “Direct mail” means printed material delivered or
153 distributed by United States mail or other delivery service to a
154 mass audience or to addressees on a mailing list provided by the
155 purchaser or at the direction of the purchaser when the cost of
156 the items are not billed directly to the recipients. “Direct mail”
157 includes tangible personal property supplied directly or
158 indirectly by the purchaser to the direct mail seller for inclusion
159 in the package containing the printed material. “Direct mail”
160 does not include multiple items of printed material delivered to
161 a single address.

162 (14) “Drug” means a compound, substance or preparation,
163 and any component of a compound, substance or preparation,
164 other than food and food ingredients, dietary supplements or
165 alcoholic beverages:

166 (A) Recognized in the official United States pharmaco-
167 poeia, official homeopathic pharmacopoeia of the United
168 States, or official national formulary, and supplement to any of
169 them;

170 (B) Intended for use in the diagnosis, cure, mitigation,
171 treatment, or prevention of disease in humans; or

172 (C) Intended to affect the structure or any function of the
173 human body.

174 (15) “Durable medical equipment” means equipment
175 including repair and replacement parts for the equipment, but
176 does not include “mobility-enhancing equipment”, which:

177 (A) Can withstand repeated use;

178 (B) Is primarily and customarily used to serve a medical
179 purpose;

180 (C) Generally is not useful to a person in the absence of
181 illness or injury; and

182 (D) Is not worn in or on the body.

183 (16) “Electronic” means relating to technology having
184 electrical, digital, magnetic, wireless, optical, electromagnetic,
185 or similar capabilities.

186 (17) “Entity-based exemption” means an exemption based
187 on who purchases the product or service or who sells the
188 product or service.

189 (18) “Food and food ingredients” means substances,
190 whether in liquid, concentrated, solid, frozen, dried or dehy-
191 drated form, that are sold for ingestion or chewing by humans
192 and are consumed for their taste or nutritional value. “Food and
193 food ingredients” does not include alcoholic beverages,
194 prepared food, or tobacco.

195 (19) "Food sold through vending machines" means food
196 dispensed from a machine or other mechanical device that
197 accepts payment.

198 (20) "Includes" and "including" when used in a definition
199 contained in this article is not considered to exclude other
200 things otherwise within the meaning of the term being defined.

201 (21) "Lease" includes rental, hire and license. "Lease"
202 means any transfer of possession or control of tangible personal
203 property for a fixed or indeterminate term for consideration. A
204 lease or rental may include future options to purchase or extend.

205 (A) "Lease" does not include:

206 (i) A transfer of possession or control of property under a
207 security agreement or deferred payment plan that requires the
208 transfer of title upon completion of the required payments;

209 (ii) A transfer or possession or control of property under an
210 agreement that requires the transfer of title upon completion of
211 required payments and payment of an option price does not
212 exceed the greater of one hundred dollars or one percent of the
213 total required payments; or

214 (iii) Providing tangible personal property along with an
215 operator for a fixed or indeterminate period of time. A condi-
216 tion of this exclusion is that the operator is necessary for the
217 equipment to perform as designed. For the purpose of this
218 subparagraph, an operator must do more than maintain, inspect,
219 or set-up the tangible personal property.

220 (B) This definition shall be used for sales and use tax
221 purposes regardless if a transaction is characterized as a lease
222 or rental under generally accepted accounting principles, the
223 Internal Revenue Code, the Uniform Commercial Code, or
224 other provisions of federal, state or local law.

225 (22) “Load and leave” means delivery to the purchaser by
226 use of a tangible storage media where the tangible storage
227 media is not physically transferred to the purchaser.

228 (23) “Mobility enhancing equipment” means equipment,
229 including repair and replacement parts to the equipment, but
230 does not include “durable medical equipment”, which:

231 (A) Is primarily and customarily used to provide or increase
232 the ability to move from one place to another and which is
233 appropriate for use either in a home or a motor vehicle;

234 (B) Is not generally used by persons with normal mobility;
235 and

236 (C) Does not include any motor vehicle or equipment on a
237 motor vehicle normally provided by a motor vehicle manufac-
238 turer.

239 (24) “Model I seller” means a seller that has selected a
240 certified service provider as its agent to perform all the seller’s
241 sales and use tax functions, other than the seller’s obligation to
242 remit tax on its own purchases.

243 (25) “Model II seller” means a seller that has selected a
244 certified automated system to perform part of its sales and use
245 tax functions, but retains responsibility for remitting the tax.

246 (26) “Model III seller” means a seller that has sales in at
247 least five member states, has total annual sales revenue of at
248 least five hundred million dollars, has a proprietary system that
249 calculates the amount of tax due each jurisdiction, and has
250 entered into a performance agreement with the member states
251 that establishes a tax performance standard for the seller. As
252 used in this definition, a seller includes an affiliated group of
253 sellers using the same proprietary system.

254 (27) "Person" means an individual, trust, estate, fiduciary,
255 partnership, limited liability company, limited liability partner-
256 ship, corporation or any other legal entity.

257 (28) "Personal service" includes those:

258 (A) Compensated by the payment of wages in the ordinary
259 course of employment; and

260 (B) Rendered to the person of an individual without, at the
261 same time, selling tangible personal property, such as nursing,
262 barbering, manicuring and similar services.

263 (29)(A) "Prepared food" means:

264 (i) Food sold in a heated state or heated by the seller;

265 (ii) Two or more food ingredients mixed or combined by
266 the seller for sale as a single item; or

267 (iii) Food sold with eating utensils provided by the seller,
268 including plates, knives, forks, spoons, glasses, cups, napkins,
269 or straws. A plate does not include a container or packaging
270 used to transport the food.

271 (B) "Prepared food" in subparagraph (ii), paragraph (A) of
272 this subdivision (29) does not include food that is only cut,
273 repackaged, or pasteurized by the seller, and eggs, fish, meat,
274 poultry, and foods containing these raw animal foods requiring
275 cooking by the consumer as recommended by the Food and
276 Drug Administration in chapter 3, part 401.11 of its Food Code
277 of 2001 so as to prevent food borne illnesses.

278 C) Additionally, "prepared food," as defined in this
279 subdivision does not include:

280 (i) Food sold by a seller whose proper primary NAICS
281 classification is manufacturing in sector 311, except subsection
282 3118 (bakeries);

283 (ii) Food sold in an unheated state by weight or volume as
284 a single item; or

285 (iii) Bakery items, including bread, rolls, buns, biscuits,
286 bagels, croissants, pastries, donuts, danish, cakes, tortes, pies,
287 tarts, muffins, bars, cookies, tortillas.

288 (30) “Prescription” means an order, formula or recipe
289 issued in any form of oral, written, electronic, or other means
290 of transmission by a duly licensed practitioner authorized by the
291 laws of this state to issue prescriptions.

292 (31) “Prewritten computer software” means “computer
293 software”, including prewritten upgrades, which is not designed
294 and developed by the author or other creator to the specifica-
295 tions of a specific purchaser.

296 (A) The combining of two or more prewritten computer
297 software programs or prewritten portions thereof does not cause
298 the combination to be other than prewritten computer software.

299 (B) “Prewritten computer software” includes software
300 designed and developed by the author or other creator to the
301 specifications of a specific purchaser when it is sold to a person
302 other than the purchaser. Where a person modifies or enhances
303 computer software of which the person is not the author or
304 creator, the person is considered to be the author or creator only
305 of the person’s modifications or enhancements.

306 (C) “Prewritten computer software” or a prewritten portion
307 thereof that is modified or enhanced to any degree, where the
308 modification or enhancement is designed and developed to the
309 specifications of a specific purchaser, remains prewritten
310 computer software: *Provided*, That where there is a reasonable,
311 separately stated charge or an invoice or other statement of the
312 price given to the purchaser for the modification or enhance-
313 ment, the modification or enhancement does not constitute
314 prewritten computer software.

315 (32) “Product-based exemption” means an exemption based
316 on the description of the product or service and not based on
317 who purchases the product or service or how the purchaser
318 intends to use the product or service.

319 (33) “Prosthetic device” means a replacement, corrective,
320 or supportive device, including repair and replacement parts for
321 the device worn on or in the body, to:

322 (A) Artificially replace a missing portion of the body;

323 (B) Prevent or correct physical deformity or malfunction of
324 the body; or

325 (C) Support a weak or deformed portion of the body.

326 (34) “Protective equipment” means items for human wear
327 and designed as protection of the wearer against injury or
328 disease or as protections against damage or injury of other
329 persons or property but not suitable for general use.

330 (35) “Purchase price” means the measure subject to the tax
331 imposed by article fifteen or article fifteen-a of this chapter and
332 has the same meaning as sales price.

333 (36) “Purchaser” means a person to whom a sale of
334 personal property is made or to whom a service is furnished.

335 (37) “Registered under this agreement” means registration
336 by a seller with the member states under the central registration
337 system provided in article four of the agreement.

338 (38) “Retail sale” or “sale at retail” means:

339 (A) Any sale or lease for any purpose other than for resale
340 as tangible personal property, sublease or subrent; and

341 (B) Any sale of a service other than a service purchased for
342 resale.

343 (39)(A) "Sales price" means the measure subject to the tax
344 levied by this article and includes the total amount of consider-
345 ation, including cash, credit, property and services, for which
346 personal property or services are sold, leased or rented, valued
347 in money, whether received in money or otherwise, without any
348 deduction for the following:

349 (i) The seller's cost of the property sold;

350 (ii) The cost of materials used, labor or service cost,
351 interest, losses, all costs of transportation to the seller, all taxes
352 imposed on the seller, and any other expense of the seller;

353 (iii) Charges by the seller for any services necessary to
354 complete the sale, other than delivery and installation charges;

355 (iv) Delivery charges;

356 (v) Installation charges;

357 (vi) The value of exempt personal property given to the
358 purchaser where taxable and exempt personal property have
359 been bundled together and sold by the seller as a single product
360 or piece of merchandise; and

361 (vii) Credit for the fair market value of any trade-in.

362 (B) "Sales price" does not include:

363 (i) Discounts, including cash, term, or coupons that are not
364 reimbursed by a third party that are allowed by a seller and
365 taken by a purchaser on a sale;

366 (ii) Interest, financing and carrying charges from credit
367 extended on the sale of personal property, goods or services, if
368 the amount is separately stated on the invoice, bill of sale or
369 similar document given to the purchaser; and

370 (iii) Any taxes legally imposed directly on the consumer
371 that are separately stated on the invoice, bill of sale or similar
372 document given to the purchaser.

373 (40) "Sales tax" means the tax levied under article fifteen
374 of this chapter.

375 (41) "Seller" means any person making sales, leases or
376 rentals of personal property or services.

377 (42) "Service" or "selected service" includes all nonprofes-
378 sional activities engaged in for other persons for a consider-
379 ation, which involve the rendering of a service as distinguished
380 from the sale of tangible personal property, but does not include
381 contracting, personal services, services rendered by an em-
382 ployee to his or her employer, any service rendered for resale,
383 or any service furnished by a business that is subject to the
384 control of the Public Service Commission when the service or
385 the manner in which it is delivered is subject to regulation by
386 the Public Service Commission of this State. The term "service"
387 or "selected service" does not include payments received by a
388 vendor of tangible personal property as an incentive to sell a
389 greater volume of such tangible personal property under a
390 manufacturer's, distributor's or other third-party's marketing
391 support program, sales incentive program, cooperative advertis-
392 ing agreement or similar type of program or agreement, and
393 these payments are not considered to be payments for a
394 "service" or "selected service" rendered, even though the
395 vendor may engage in attendant or ancillary activities associ-
396 ated with the sales of tangible personal property as required
397 under the programs or agreements.

398 (43) "Soft drink" means nonalcoholic beverages that
399 contain natural or artificial sweeteners. "Soft drinks" do not
400 include beverages that contain milk or milk products, soy, rice
401 or similar milk substitutes, or greater than fifty percent of
402 vegetable or fruit juice by volume.

403 (44) “State” means any state of the United States and the
404 District of Columbia.

405 (45) “Tangible personal property” means personal property
406 that can be seen, weighed, measured, felt, or touched, or that is
407 in any manner perceptible to the senses. “Tangible personal
408 property” includes, but is not limited to, electricity, steam,
409 water, gas and prewritten computer software.

410 (46) “Tax” includes all taxes levied under articles fifteen
411 and fifteen-a of this chapter, and additions to tax, interest and
412 penalties levied under article ten of this chapter.

413 (47) “Tax Commissioner” means the State Tax Commis-
414 sioner or his or her delegate. The term “delegate” in the phrase
415 “or his or her delegate”, when used in reference to the Tax
416 Commissioner, means any officer or employee of the State Tax
417 Division duly authorized by the Tax Commissioner directly, or
418 indirectly by one or more redelegations of authority, to perform
419 the functions mentioned or described in this article or rules
420 promulgated for this article.

421 (48) “Taxpayer” means any person liable for the taxes
422 levied by articles fifteen and fifteen-a of this chapter or any
423 additions to tax, penalties imposed by article ten of this chapter.

424 (49) “Tobacco” means cigarettes, cigars, chewing or pipe
425 tobacco or any other item that contains tobacco.

426 (50) “Use tax” means the tax levied under article fifteen-a
427 of this chapter.

428 (51) “Use-based exemption” means an exemption based on
429 the purchaser’s use of the product or service.

430 (52) “Vendor” means any person furnishing services taxed
431 by article fifteen or fifteen-a of this chapter, or making sales of
432 tangible personal property or custom software. “Vendor” and

433 “seller” are used interchangeably in this article and in article
434 fifteen and fifteen-a of this chapter.

435 (c) *Additional definitions.* — Other terms used in this
436 article are defined in articles fifteen and fifteen-a of this
437 chapter, which definitions are incorporated by reference into
438 this article. Additionally, other sections of this article may
439 define terms primarily used in the section in which the term is
440 defined.

§11-15B-2a. Streamlined sales and use tax agreement defined.

1 As used in this article and articles fifteen and fifteen-a of
2 this chapter, the term “streamlined sales and use tax agreement”
3 or “agreement” means the agreement adopted the twelfth day of
4 November, two thousand two, by states that enacted authority
5 to engage in multistate discussions similar to that provided in
6 section four of this article, except when the context in which the
7 term is used clearly indicates that a different meaning is
8 intended by the Legislature. “Agreement” includes amendments
9 to the agreement adopted by the implementing states in
10 calendar years two thousand three, two thousand four, and two
11 thousand five, but does not include any substantive changes in
12 the agreement adopted after the sixteenth day of April, two
13 thousand five.

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

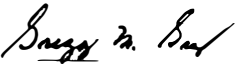

Cheryl White
Chairman Senate Committee



K. Brown
Chairman House Committee

Originating in the House.

In effect from passage.

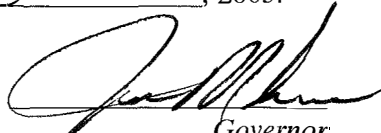

Darrell Holman
Clerk of the Senate


Sergio M. Paul
Clerk of the House of Delegates


Carl Roy Tomblin
President of the Senate


Speaker of the House of Delegates

The within is approved this the 28th
day of September, 2005.


Governor

PRESENTED TO THE
GOVERNOR

Date 9/16/05

Time 4:25 pm