

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 3012

BY DELEGATES ANDERSON, ZATEZALO, FOGGIN,
HECKERT, HOTT, BARNHART, FERRELL, YOUNG, HANSEN,
FEHRENBACHER AND ROWE

[Passed March 8, 2023; in effect ninety days from passage.]

1 AN ACT to amend and reenact §11-13A-3c of the Code of West Virginia, 1931, as amended,
2 relating to the imposition of the tax on the privilege of severing other natural resources;
3 providing for an exemption from the imposition of the severance tax for a period of 9 years
4 beginning on July 1, 2023, for severing rare earth elements and critical minerals; and
5 defining rare earth elements and critical minerals.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

§11-13A-3c. Imposition of tax on privilege of severing other natural resources.

1 (a) Imposition of tax. — For the privilege of engaging or continuing within this state in the
2 business of severing, extracting, reducing to possession and producing for sale, profit or
3 commercial use any other natural resource product or product not taxed under section three,
4 three-a, three-b or four of this article, there is hereby levied and shall be collected from every
5 person exercising this privilege an annual privilege tax.

6 (b) Rate and measure of tax. — The tax imposed in subsection (a) of this section shall be
7 four percent of the gross value of the natural resource produced, as shown by the gross proceeds
8 derived from the sale thereof by producer, except as otherwise provided in this article: *Provided,*
9 That beginning July 1, 1993, the tax imposed by this section shall be levied and collected at the
10 rate of four and one-half percent, and beginning July 1, 1994, the tax imposed by this section
11 shall be levied and collected at the rate of five percent: *Provided, however,* That there is an
12 exemption from the imposition of the tax provided for in this article for 9 years beginning July 1,
13 2023, for severing, extracting, reducing to possession and producing for sale, profit or commercial
14 use rare earth elements and critical minerals. For the purposes of this section, "rare earth
15 elements" (also known as rare earth metals or rare earth oxides) are only yttrium, lanthanum,
16 cerium, praseodymium, neodymium, promethium, samarium, europium, gadolinium, terbium,
17 dysprosium, holmium, erbium, thulium, ytterbium, lutetium, and scandium, and "critical minerals"
18 are only aluminum, antimony, arsenic, barite, beryllium, bismuth, cesium, chromium, cobalt,

19 fluorspar, gallium, germanium, graphite, hafnium, indium, iridium, lithium, magnesium,
20 manganese, nickel, niobium, palladium, platinum, rhodium, rubidium, ruthenium, tantalum,
21 tellurium, tin, titanium, tungsten, vanadium, zinc, zirconium, uranium, osmium, strontium, rhenium,
22 potash, and bauxite.

23 (c) Tax in addition to other taxes. — The tax imposed by this section shall apply to all
24 persons severing other natural resources in this state, and shall be in addition to all other taxes
25 imposed by law.

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

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2023.

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Governor