

*adopted
6/17/76*

OFFICIAL

WEST MIFFLIN AREA SCHOOL DISTRICT

RESOLUTION

A RESOLUTION OF THE WEST MIFFLIN AREA SCHOOL DISTRICT TO PROVIDE REVENUE FOR THE WEST MIFFLIN AREA SCHOOL DISTRICT BY IMPOSING A MERCANTILE LICENSE TAX ON PERSONS ENGAGED IN CERTAIN OCCUPATIONS AND BUSINESSES THEREIN; PROVIDING FOR ITS LEVY AND COLLECTION AND CONFERRING AND IMPOSING POWERS AND DUTIES ON THE COLLECTION OF THE MERCANTILE LICENSE TAX OF WEST MIFFLIN AREA SCHOOL DISTRICT, AND IMPOSING PENALTIES.

BE IT RESOLVED AND ENACTED by the Board of School Directors of West Mifflin Area School District in meeting assembled, and it is hereby resolved and enacted by and with authority of the same, that under and by virtue of Act No. 511 of 1965, and any amendments therein, known as "The Local Tax Enabling Act." Act of December 31, 1965, P.L. 1257, and its amendments, hereby enacts as follows:

SECTION 1. DEFINITIONS:

The following words and phrases when used in this Resolution shall have the meaning ascribed to them in this Section unless the context clearly indicates a different meaning:

(a) "Person" shall mean any individual, partnership, limited partnership, association, corporation, trust or estate. Whenever used in any Section prescribing and imposing a penalty, the term "person" as applied to associations or partnership shall mean the members or partners thereof, and, as applied to corporations, the officers thereof.

(b) "Wholesale Dealer" or "Wholesale Vendor" shall mean any person who sells to dealers in or venders of goods, wares and merchandise and any merchant broker, factor and commission merchant, and to no other person, whether or not such vending or dealing is the primary business activity of such

person.

(c) "Retail Dealer" or "Retail Vendor" shall mean any person who is a dealer in or vendor of goods, wares and merchandise, who is not a wholesale dealer or vendor, whether or not such vending or dealing is the primary business activity.

(d) The terms "person," "wholesale dealer," "wholesale vendor," "retail dealer," and retail vendor" shall not include agencies of the Government of the United States or of the Commonwealth of Pennsylvania, or any person vending or disposing of articles of his own growth, production or manufacture.

(e) "Place of amusement or entertainment" shall mean any place indoors or outdoors where the general public or a limited or selected number thereof, may upon payment of an established price, attend or engage in any amusement, entertainment, exhibition, contest, recreation, including among other places, theatres, opera houses, amusement parks, stadia, arenas, baseball or football parks or fields, skating rinks, circus or carnival tents or grounds, fair grounds, bowling alleys, billiard or pool rooms, schuffle board rooms, nine or tenpin alleys, riding academies, golf courses, bathing and swimming places, dance halls, tennis courts, archery, rifle, pistol or shotgun ranges, arcades, and other like places. The term does not include any exhibition, amusement, performances or contest conducted by a nonprofit corporation or association organized for religious, charitable or education purposes.

(f) "Restaurant or other place where food, drink or refreshments are sold" shall not include such facilities of nonprofit corporations and/or beneficial associations which are deemed or considered to be services under either statutory or case law, or any other such facility which is exempt by law.

(g) "Gross volume of business" shall mean value received regardless of form.

(h) "License year" and "tax year" shall mean the fiscal year beginning July 1, 1976, and ending midnight June 30, 1977, and from there on, shall mean the twelve-month period from July 1 through June 30.

(i) "Collector" shall mean the person designated, from time to time by the Board of School Directors of West Mifflin Area School District to enforce and administer this Resolution and collect the taxes provided for hereunder.

(j) "Temporary, seasonal or itinerant business" shall mean any business that is conducted for a limited period of time.

(k) "School District" shall mean the area within the corporate limits of the Boroughs of West Mifflin and Whitaker.

(l) The singular shall include the plural and the masculine shall include the feminine and the neuter.

SECTION 2. LEVY AND COLLECTION OF TAX:

For the tax year beginning on July 1, 1976, and ending midnight June 30, 1977 and continuing thereafter from the tax year beginning July 1, 1977, and ending midnight June 30, 1978, and thereafter continuing year to year on a tax year basis, a Mercantile License Tax for general revenue purposes is hereby imposed by the West Mifflin Area School District the manner and rate hereinafter set forth.

SECTION 3. IMPOSITION AND RATE OF TAX:

Every person engaged in any of the following occupations or businesses in the School District shall pay a Mercantile License Tax for the tax year beginning July 1, 1976, and ending midnight June 30, 1977, and annually thereafter on a tax year basis, from tax year to tax year, at the rate set forth:

(a) Wholesale vendor or dealer in goods, wares and merchandise, at the rate of one (1) mill (\$.001) on each dollar of the volume of the annual gross business transacted by them.

(b) Retail vendor or dealer in goods, wares and merchandise, and all persons engaged in conducting restaurants or other places where food, drink or refreshments are sold, whether or not the same is incidental to some other business or occupation, all persons conducting places of amusement or entertainment whether or not the same be incidental to some other business or occupation at the rate of one and one-half (1-1/2) mills (\$.0015) on each dollar of the volume of the annual gross business transacted by them.

(c) Wholesale and retail vendors or dealers in goods, wares and merchandise at the rate of one (1) mill (\$.001) on each dollar of the volume of the annual gross wholesale business transacted by them, and one and one-half (1-1/2) mills (\$.0015) on each dollar of the volume of the annual gross retail business transacted by them.

(d) The tax imposed by this Resolution shall not apply to the dollar volume of annual business covering the resale of goods, wares and merchandise taken by a dealer as a trade-in or part-payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.

SECTION 4. COMPUTATION OF VOLUME OF BUSINESS:

(a) Every person subject to the payment of the tax hereby imposed, who has commenced his business at least one (1) full year prior to the beginning of any license year, shall compute his annual gross volume of business upon the annual gross amount of business transacted by him during the preceding calendar year.

(b) Every person subject to the payment of the tax hereby imposed, who has commenced his business less than one (1) full year prior to the beginning of any license year, shall compute his annual gross volume of business for such a license year

upon the gross volume of business transacted by him during the first month he engages in business multiplied by twelve (12).

(c) Every person subject to the payment of the tax hereby imposed, who commences his business subsequent to the beginning of any license year, shall compute his annual gross volume of business for such license year upon the gross volume of business transacted by him during the first month of his engaging in business multiplied by the number of months or fractions thereof he engages in business in such license year.

(d) Every person subject to the payment of the tax hereby imposed, who engages in a business temporarily, seasonal or itinerant by its nature, shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during such license year.

(e) Every person who shall discontinue business during any license year after having paid the Mercantile License Tax for the entire year, upon making proper application to the Collector, shall be entitled to receive a refund or prorata amount of the tax paid, based upon the period of time he was not in business during the license year.

SECTION 5. RETURNS:

(a) Every return shall be made upon a form furnished by the Collector. Every person making a return shall certify the correctness thereof.

(b) Every person subject to the tax imposed by this Resolution who has commenced his business at least one (1) full year prior to the beginning of the license year shall on or before September 30 of the tax year, file with the Collector of Taxes a return setting forth his name, his business and his business address and such other information as may be necessary in arriving at the actual whole volume of business transacted by

him during the preceding fiscal year, and the amount of the tax due.

(c) Every person subject to the tax imposed by this Resolution who has commenced his business less than one (1) full fiscal year prior to the beginning of the tax year, shall on or before September 30 of the tax year, file with the Collector of Taxes a return setting forth his name, his business and his business address and such other information as may be necessary in arriving at the amount of the taxable whole volume of business and the amount of the tax due.

(d) Every person subject to the tax imposed by this Resolution who commences business subsequent to the beginning of the tax year, shall, on or before June 15 of the tax year, file with the Collector of Taxes a return setting forth his name, his business and his business address and such other information as may be necessary in arriving at the taxable whole volume of business for the current tax year, and the amount of tax due.

(e) Every person subject to the payment of the tax imposed by this Resolution who engages in a business temporary, seasonal or itinerant by its nature, shall within thirty (30) days after completing such business, file a return with the Collector of Taxes setting forth his name, his business and his business address and such other information as may be necessary in arriving at the actual gross volume of the business transacted by him during such period and the amount of tax due.

SECTION 6. PAYMENT:

At the time of filing the return, the person making the same shall pay the amount of tax shown as due thereon to the Collector of Taxes.

SECTION 7. POWERS AND DUTIES OF THE COLLECTOR:

(a) It shall be the duty of the Collector to collect

and receive the taxes, fines and penalties imposed by this Resolution. It shall also be his duty to keep a record showing the amount received by him from each person paying the tax and the date of such receipt.

(b) The Collector is hereby charged with the administration and enforcement of the provisions of this Resolution, and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Resolution, including provisions for the reexamination and correction of returns, and payments alleged or found to be incorrect, or as to which an over-payment is claimed, or found to have occurred. Before exercising any power granted by Section 13 of "The Local Tax Enabling Act," Act No. 511 of 1965, it shall be the duty of the Collector of Taxes to afford any person a hearing, after giving at least ten (10) days' written notice to such person, of intention to exercise such power, and of the right to such hearing. Any person aggrieved by any decision of the Collector of Taxes shall have the right to appeal as provided by law.

(c) The collector of Taxes is hereby authorized to examine the books, papers and records of any taxpayer, or supposed taxpayer, in order to verify the accuracy of any return made, or, if no return was made, to ascertain the tax due. Every such taxpayer, or supposed taxpayer, is hereby directed and required to give to the Collector, or his authorized agent, the means, facilities and opportunity for such examination and investigation as are hereby authorized.

(d) Any information gained by any School Director, any other official, employee or agent of the West Mifflin Area School District, as a result of any return, investigation, hearing or

verification required or authorized by this Resolution, shall be confidential, except for official purposes, and except in accordance with proper judicial order, or as otherwise provided by law. Any disclosure of any such information contrary to the provisions of this Section shall constitute a violation of this Resolution. Any employee or agent of the West Mifflin Area School District may be dismissed from his or her employment for the disclosure of any such information.

(e) The Collector is hereby instructed and authorized to impound all returns, verifications and records that come into his custody through the operation of this Resolution.

SECTION 8. SUIT ON COLLECTION; PENALTY:

(a) All taxes imposed by this Resolution, together with all penalties imposed under this Resolution, shall be recoverable by the West Mifflin Area School District Solicitor as other debts are recoverable. Nothing in this Section shall be construed to limit the School District from recovering delinquent taxes by other means provided by the "Local Tax Collection Law," Act of May 25, 1965, P.L. 1050, and its amendments.

(b) If, for any reason, the tax is not paid when due, interest at the rate of six (6%) per centum per annum on the amount of said tax, and an additional penalty of one (1%) per centum on the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

SECTION 9. COLLECTOR OF TAXES:

The Collector of Taxes shall be designated and appointed

from time to time by Resolution of, and shall receive such compensation for his services and expenses as determined from time to time, by the Board of School Directors of West Mifflin Area School District. The Collector of Taxes shall furnish a Bond with corporate surety acceptable to the Board of School Directors of West Mifflin Area School District conditioned upon the faithful performance of his duties as prescribed by this Resolution. The amount of the Bond shall be set by Resolution of the Board of School Directors of West Mifflin Area School District.

SECTION 10. FINES AND PENALTIES

Whoever makes any false or untrue statements on his return, or who refuses to permit inspection of the books, records or accounts of any business in his custody or control, when the right to make such inspection by the Collector or his authorized agent is requested, and whoever fails or refuses to file a return required under this Resolution shall, upon conviction before any alderman or magistrate, be sentenced to pay a fine of not more than One Hundred (\$100.00) Dollars for each offense, and in default of payment of said fine and costs, to be imprisoned in the Allegheny County Jail for a period not exceeding thirty (30) days for each offense. In cases of firms or associations, the penalty may be imposed upon the partners or members thereof, and in the case of corporations, upon the officers thereof.

SECTION 11. APPLICABILITY:

(a) Nothing contained in this Resolution shall be construed to empower the West Mifflin Area School District to levy and collect the taxes hereby imposed, on any person, or any business, or any portion of any business not within the taxing power of the West Mifflin Area School District under the

Constitution of the United States and the laws and Constitution of the Commonwealth of Pennsylvania.

(b) The provisions of this Resolution shall not apply to nonprofit corporations or associations organized for religious, charitable or educational purposes, agencies of the Government of the United States, or of any person whose rates and services are fixed and regulated by the Public Utility Commission.

SECTION 12. SEVERABILITY:

The Provisions of this Resolution are severable. If any sentence, word, phrase, clause or section of this Resolution is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, words, phrases, clauses or sections of this Resolution. It is hereby declared to be the intent of the Board of School Directors of West Mifflin Area School District that this Resolution would have been adopted had such unconstitutional, illegal or invalid sentence, word, phrase, clause or section not been included herein.

If the tax, or any portion thereof, imposed upon any person under the provisions of this Resolution, shall be held by any Court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws and Constitution of the Commonwealth of Pennsylvania, the decision of the Court shall not affect nor impair the right to impose the taxes or the validity of the taxes so imposed upon other persons as herein provided.

SECTION 13. EFFECTIVE DATE

This Resolution shall become effective July 1, 1976,

and shall remain in effect thereafter, from tax year to tax year, on a fiscal year basis.

RESOLVED AND ENACTED into law this 14th day of June,

1976

ATTEST:

BOARD OF SCHOOL DIRECTORS
WEST MIFFLIN AREA SCHOOL DISTRICT

Marqueritte Turlik
Marqueritte Turlik
Secretary

Albert V. Hovanec
Albert Hovanec
President