

# WEST VIRGINIA CODE: §11-14A-2

## §11-14A-2. Definitions.

For purposes of this article:

- (1) "Average fuel consumption factor" means the miles driven by the fleet of motor carriers for each gallon of motor fuel consumed in that activity (miles per gallon), and is calculated by dividing the total distance driven in all jurisdictions during the reporting period by the total quantity of motor fuel consumed in the operation of the motor carrier in all jurisdictions during the same reporting period.
- (2) "Commissioner" or "Tax Commissioner" means the Tax Commissioner of the State of West Virginia or his or her duly authorized agent.
- (3) "Fleet" means, for purposes of administering the tax imposed by this article, one or more motor carriers operated by the same person.
- (4) "Gallon" means two hundred thirty-one cubic inches of liquid measurement, by volume: Provided, That the commissioner may by rule prescribe other measurement or definition of gallon.
- (5) "Gasoline" means any product commonly or commercially known as gasoline, regardless of classification, suitable for use as fuel in an internal combustion engine, except special fuel as hereinafter defined: Provided, That in the event there is a question as to the proper classification of any product, "gasoline" has the same meaning as in article fourteen-c of this chapter.
- (6) "Highway" means every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel, which is maintained by this state or some taxing subdivision or unit thereof or the federal government or any of its agencies.
- (7) "Household goods carrier" means a person that uses a motor carrier for the movement of another's household goods.
- (8) "Identification marker" means the decal issued by the commissioner for display upon a particular motor carrier and authorizing a person to operate or cause to be operated a motor carrier upon any highway of the state: Provided, That an identification marker shall include decals issued under the authority of article fourteen-b of this chapter to persons licensed thereunder: Provided, however, That said decals shall comply with the international fuel tax agreement requirements referenced under the said article fourteen-b.
- (9) "Independent contractor" means a person that uses its motor carrier or motor carriers in its own or another person's business for the purpose of transporting passengers or the goods of a third party.

(10) "Lease" means any oral or written contract for valuable consideration granting the use of a motor carrier.

(11) "Motor carrier" means any vehicle used, designed or maintained for the transportation of persons or property and having two axles and a gross vehicle weight exceeding twenty-six thousand pounds or eleven thousand seven hundred ninety-seven kilograms, or having three or more axles regardless of weight, or is used in combination when the weight of the combination exceeds twenty-six thousand pounds or eleven thousand seven hundred ninety-seven kilograms gross vehicle weight or registered gross vehicle weight. The term motor carrier does not include any type of recreational vehicle.

(12) "Motor fuel" means motor fuel as defined in article fourteen-c of this chapter effective January 1, 2004.

(13) "Operation" means any operation of any motor carrier, whether loaded or empty, whether for compensation or not, and whether owned by or leased to the person who operates or causes to be operated any motor carrier.

(14) "Person" means and includes any individual, firm, partnership, limited partnership, joint venture, association, company, corporation, organization, syndicate, receiver, trust or any other group or combination acting as a unit, in the plural as well as the singular number, and includes the officers, directors, trustees or members of any firm, partnership, limited partnership, joint venture, association, company, corporation, organization, syndicate, receiver, trust or any other group or combination acting as a unit, in the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(15) "Pool operation" means any operation whereby two or more taxpayers combine to operate or cause to be operated a motor carrier or motor carriers upon any highway in this state.

(16) "Purchase" means and includes any acquisition of ownership of property or of a security interest for a consideration.

(17) "Recreational vehicles" means vehicles such as motor homes, pickup trucks with attached campers and buses, when used exclusively for personal pleasure by an individual. In order to qualify as a recreational vehicle, the vehicle shall not be used in connection with any business endeavor.

(18) "Road tractor" means every motor carrier designed and used for drawing other vehicles and not constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

(19) "Sale" means any transfer, exchange, gift, barter or other disposition of any property or security interest for a consideration.

(20) "Special fuel" means any gas or liquid, other than gasoline, used or suitable for use as fuel in an internal combustion engine. The term "special fuel" includes products commonly known as natural or casing-head gasoline but shall not include any petroleum product or chemical compound such as alcohol, industrial solvent, heavy furnace oil, lubricant, etc., not commonly used nor practicably suited for use as fuel in an internal combustion engine: Provided, That in the event there is a question as to the proper classification of any gas or liquid, "special fuel" has the same meaning as in article fourteen-c of this chapter.

(21) "Tax" includes, within its meaning, interest, additions to tax and penalties, unless the intention to give it a more limited meaning is disclosed by the context.

(22) "Taxpayer" means any person liable for any tax, interest, additions to tax or penalty under the provisions of this article.

(23) "Tractor truck" means every motor carrier designed and used primarily for drawing other vehicles and not constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(24) "Truck" means every motor carrier designed, used or maintained primarily for the transportation of property and having more than two axles.