

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1939



ENROLLED

HOUSE BILL No. 107

(By Mr. Strouss)



PASSED Feb. 17, 1939

In Effect June 30, 1939 ~~Passage~~

# 107

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**House Bill No. 107**

(BY MR. STROUSS)

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[Passed February 17, 1939; in effect June 30, 1939.]

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AN ACT to amend and reenact section three, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to tax on gasoline.

*Be it enacted by the Legislature of West Virginia:*

That section three, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be further amended and reenacted to read as follows:

**Article 14. Gasoline Tax.**

Section 3. *Amount, Duration, Measure and Lien of Tax.*

2 There is hereby imposed upon every person who is a distribu-  
3 tor, retail dealer or importer under the terms of this article, an  
4 excise tax based on the quantities of all gasoline produced,  
5 purchased, sold or used in this state, which tax shall, until

6 July first, one thousand nine hundred forty-one, be equivalent  
7 to five cents per gallon thereof, and shall be paid as herein-  
8 after provided. On and after July first, one thousand nine  
9 hundred forty-one, the tax herein provided shall be equivalent  
10 to four cents per gallon.

11 A distributor, importer, or retail dealer shall use as the  
12 measure of the tax the gallonage produced, purchased, sold  
13 or used in this state (as provided in section four of this  
14 article). Gallonage shall be included in the measure of the  
15 tax by refiners and producers when such gallonage has been  
16 placed into any tank from which withdrawals are made for  
17 sales or transfer to any other person.

18 The excise tax imposed by this article shall be paid by the  
19 person first producing, or receiving in this state, the gallonage  
20 of gasoline which under this article shall form the measure of  
21 such tax; but in no case shall any such gallonage be used more  
22 than once in determining taxes due hereunder. The taxes im-  
23 posed by this article are in addition to all other taxes now  
24 imposed by law.

25 The excise tax imposed by this article shall accrue from the  
26 date of production, purchase, sale or use of the gasoline. The

27 penalties imposed by section thirteen of this article shall accrue  
28 from the date they become due and payable, and such taxes and  
29 penalties shall be and remain a charge and lien upon the prop-  
30 erties, both personal and real, of the person liable to pay such  
31 taxes and penalties, superior to any lien created after such  
32 taxes and penalties accrue. Whenever a distributor, importer  
33 or retail dealer ceases to engage in business within this state by  
34 reason of the discontinuance, sale or transfer of the business of  
35 such distributor, importer or retail dealer, it shall be his duty  
36 to notify the tax commissioner in writing at the time the dis-  
37 continuance, sale or transfer takes effect. Such notice shall give  
38 the date of discontinuance and in the event of a sale or transfer  
39 of the business, the date thereof and the name and address of  
40 the purchaser or transferee thereof; all taxes accruing under  
41 this article, but not yet due and payable under the provisions  
42 of this article shall, notwithstanding such provisions, become  
43 due and payable concurrently with such discontinuance, sale or  
44 transfer, and it shall be the duty of such distributor, importer  
45 or retail dealer to make a report and pay all such taxes, and to  
46 surrender to the tax commissioner the license certificate there-  
47 tofore issued, under the provisions of this article.

48 Unless the notice shall have been given to the tax com-  
49 missioner as above provided, such purchaser or transferee  
50 shall be liable to the state of West Virginia for the amount  
51 of all taxes and penalties, under this article accrued against  
52 such distributor, importer or retail dealer so selling or trans-  
53 ferring his business, on the date of such sale or transfer, but  
54 only to the extent of the value of the property and business  
55 thereby acquired from such distributor, importer or retail  
56 dealer.

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

*Frank Mullender*  
Acting Chairman Senate Committee

*Deke B. Baker*  
Chairman House Committee

Originated in the *House of Delegates*

Takes effect *June 30, 1939* passage.

*Charles D. Ingham*  
Clerk of the Senate

*Geo. S. Hall*  
Clerk of the House of Delegates

*Wm. C. C. Cannon*  
President of the Senate

*James Kay Thomas*  
Speaker House of Delegates

The within *approved* this the *27<sup>th</sup>*  
day of *February*, 1939.

*Lawrence S. Brown*  
Governor.



Filed in the office of the Secretary of State  
of West Virginia. **FEB 27 1939**

Wm. S. O'BRIEN,  
Secretary of State