

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1941



ENROLLED

HOUSE BILL No. 211

(By Mr. Ballard of Mercer)



PASSED February 22, 1941

In Effect From Passage

ENROLLED

House Bill No. 211

(BY MR. BALLARD, OF MERCER)

[Passed February 22, 1941: in effect ninety days from passage.]

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 by chapter one hundred twenty-five, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, 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 by chapter one hundred twenty-five, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be further amended and reenacted to read as follows:

Article 14. Gasoline Tax.

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

2 *Notice of Discontinuance, etc., of Business.*—There is here-
3 by imposed upon every person who is a distributor,
4 retail dealer or importer under the terms of this article,
5 an excise tax based on the quantities of all gasoline
6 produced, purchased, sold or used in this state, which tax
7 shall, until July first, one thousand nine hundred forty-
8 three, be equivalent to five cents per gallon thereof, and
9 shall be paid as hereinafter provided. On and after July
10 first, one thousand nine hundred forty-three, the tax
11 herein provided shall be equivalent to four cents per
12 gallon.

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

21 The excise tax imposed by this article shall be paid
22 by the person first producing, or receiving in this state,

23 the gallonage of gasoline which under this article shall
24 form the measure of such tax; but in no case shall any
25 such gallonage be used more than once in determining
26 taxes due hereunder. The taxes imposed by this article
27 are in addition to all other taxes now imposed by law.
28 The excise tax imposed by this article shall accrue
29 from the date of production, purchase, sale or use of the
30 gasoline. The penalties imposed by section thirteen of
31 this article shall accrue from the date they become due
32 and payable, and such taxes and penalties shall be and
33 remain a charge and lien upon the properties, both per-
34 sonal and real, of the person liable to pay such taxes
35 and penalties, superior to any lien created after such
36 taxes and penalties accrue. Whenever a distributor,
37 importer or retail dealer ceases to engage in business
38 within this state by reason of the discontinuance, sale or
39 transfer of the business of such distributor, importer or
40 retail dealer, it shall be his duty to notify the tax com-
41 missioner in writing at the time the discontinuance, sale
42 or transfer takes effect. Such notice shall give the date
43 of discontinuance and in the event of a sale or transfer of

44 the business, the date thereof and the name and address
45 of the purchaser or transferee thereof; all taxes accruing
46 under this article, but not yet due and payable under the
47 provisions of this article shall, notwithstanding such pro-
48 visions, become due and payable concurrently with such
49 discontinuance, sale or transfer, and it shall be the duty of
50 such distributor, importer or retail dealer to make a re-
51 port and pay all such taxes, and to surrender to the tax
52 commissioner the license certificate theretofore issued,
53 under the provisions of this article.

54 Unless the notice shall have been given to the tax
55 commissioner as above provided, such purchaser or trans-
56 feree shall be liable to the state of West Virginia for the
57 amount of all taxes and penalties, under this article ac-
58 crued against such distributor, importer or retail dealer
59 so selling or transferring his business, on the date of such
60 sale or transfer, but only to the extent of the value of the
61 property and business thereby acquired from such dis-
62 tributor, importer or retail dealer.

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

G. H. McKeown
Chairman Senate Committee

Leon Rice
Chairman House Committee

Originated in the House of Delegates

Takes effect From passage.

A. Isaac Williams
Clerk of the Senate

Stallup
Clerk of the House of Delegates

Byron B. Randolph
President of the Senate

Mahlon R. Arnold
Speaker House of Delegates

The within approved this the 1st
day of March, 1941.

Matthew M. Nease
Governor.

Filed in the office of the Secretary of State
of West Virginia. MAR 3 1941
Wm. S. O'BRIEN,
Secretary of State