

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1943



ENROLLED

HOUSE BILL No. 211

(By Mr. Hansbarger)



PASSED February 26, 1943

In Effect ninety days from Passage

211

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(BY MR. HANSBARGER)

[Passed February 26, 1943; 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 and reenacted by chapter one hundred twenty-four, acts of the Legislature, regular session, one thousand nine hundred forty-one, 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 and reenacted by chapter one hundred twenty-four, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended and reenacted to read as follows:

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

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

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

19 The excise tax imposed by this article shall be paid by
20 the person first producing, or receiving in this state, the
21 gallonage of gasoline which under this article shall form
22 the measure of such tax; but in no case shall any such

23 gallonage be used more than once in determining taxes
24 due hereunder. The taxes imposed by this article are in
25 addition to all other taxes now imposed by law.

26 The excise tax imposed by this article shall accrue from
27 the date of production, purchase, sale or use of the gaso-
28 line. The penalties imposed by section thirteen of this
29 article shall accrue from the date they become due and
30 payable, and such taxes and penalties shall be and re-
31 main a charge and lien upon the properties, both personal
32 and real, of the person liable to pay such taxes and penal-
33 ties, superior to any lien created after such taxes and
34 penalties accrued. Whenever a distributor, importer or
35 retail dealer ceases to engage in business within this state
36 by reason of the discontinuance, sale or transfer of the
37 business of such distributor, importer or retail dealer, it
38 shall be his duty to notify the tax commissioner in writing
39 at the time of the discontinuance, sale or transfer takes
40 effect. Such notice shall give the date of discontinuance
41 and in the event of a sale or transfer of the business, the
42 date thereof and the name and address of the purchaser
43 or transferee thereof; all taxes accruing under this article,

44 but not yet due and payable under the provisions of this
45 article shall, notwithstanding such provisions, become
46 due and payable concurrently with such discontinuance,
47 sale or transfer, and it shall be the duty of such distribu-
48 tor, importer or retail dealer to make a report and pay all
49 such taxes, and to surrender to the tax commissioner the
50 license certificate theretofore issued, under the provisions
51 of this article.

52 Unless the notice shall have been given to the tax com-
53 missioner as above provided, such purchaser or transferee
54 shall be liable to the state of West Virginia for the amount
55 of all taxes and penalties, under this article accrued
56 against such distributor, importer or retail dealer so sell-
57 ing or transferring his business, on the date of such sale
58 or transfer, but only to the extent of the value of the
59 property and business thereby acquired from such dis-
60 tributor, importer or retail dealer.

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

Ray J. Jinnion
Chairman Senate Committee

Frank H. Poterff
Chairman House Committee

Originated in the *House of Delegates*

Takes effect *ninety days from* passage.

Arthur Watkins
Clerk of the Senate

Stalliff
Clerk of the House of Delegates

James Pauee
President of the Senate

John E. Cress
Speaker House of Delegates

The within *approved* this the *10*
day of *March*, 1943.

Matthew M. Neely
Governor.



Filed in the office of the Secretary of State
of West Virginia **MAR 10 1943**
Wm. S. O'BRIEN,
Secretary of State