WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1945

ENROLLED

HOUSE BILL No. 47

(By Mr. Hurd)  

PASSED Feb. 22, 1945

In Effect 90 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, acts of the Legislature, regular session, one thousand nine hundred forty-three; and section twenty-two, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter eighty-nine, acts of the Legislature, regular session, one thousand nine hundred forty-three, 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, acts
of the Legislature, regular session, one thousand nine hundred forty-three; and section twenty-two, article fourteen, chapter eleven of the code of West Virginia, as last amended and reenacted by chapter eighty-nine, acts of the Legislature, regular session, one thousand nine hundred forty-three, be amended and reenacted to read as follows:

Section 3. Amount, Duration, Measure and Lien of Tax; Notice of Discontinuance, Etc., of Business.—There is hereby imposed upon every person who is a distributor, retail dealer or importer under the terms of this article, an excise tax based on the quantities of all gasoline produced, purchased, sold or used in this state, which tax shall until July first, one thousand nine hundred forty-seven, be equivalent to five cents per gallon thereof, and shall be paid as hereinafter provided. On and after July first, one thousand nine hundred forty-seven, the tax herein provided shall be equivalent to four cents per gallon.

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

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

The excise tax imposed by this article shall accrue from the date of production, purchase, sale or use of the gasoline. The penalties imposed by section thirteen of this article shall accrue from the date they become due and payable. A tax due and unpaid under this article shall be a debt due the state of West Virginia. It shall be a personal obligation of the taxpayer and shall be a lien in favor of the state of West Virginia upon all property and rights to property, whether real or personal, belonging to such taxpayer. The lien shall arise when a taxpayer fails
to file his return and remit the tax at the time required by this article. Such lien shall not be valid or enforceable against a purchaser (including lien creditor) of real estate or personal property for a valuable consideration, without notice unless docketed in the office of the clerk of the county court as provided in sections one and two, article ten-c, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter ninety-nine, acts of the Legislature, regular session, one thousand nine hundred forty-three.

Whenever a distributor, importer or retail dealer ceases to engage in business within this state by reason of the discontinuance, sale or transfer of the business of such distributor, importer or retail dealer, it shall be his duty to notify the tax commissioner in writing at the time of the discontinuance, sale or transfer takes effect. Such notice shall give the date of discontinuance and in the event of a sale or transfer of the business, the date thereof and the name and address of the purchaser or transferee thereof; all taxes accruing under this article, but not yet due
and payable under the provisions of this article shall, notwithwithstanding such provisions, become due and payable concurrently with such discontinuance, sale or transfer, and it shall be the duty of such distributor, importer or retail dealer to make a report and pay all such taxes, and to surrender to the tax commissioner the license certificate theretofore issued, under the provisions of this article.

Unless the notice shall have been given to the tax commissioner as above provided, such purchaser or transferee shall be liable to the state of West Virginia for the amount of all taxes and penalties, under this article accrued against such distributor, importer or retail dealer so selling or transferring his business, on the date of such sale or transfer, but only to the extent of the value of the property and business thereby acquired from such distributor, importer or retail dealer.

Sec. 22. Taxes to Be Used for Road Purposes.—All taxes collected under the provisions of this article shall be paid into the state treasury and shall be used only for the purpose of the construction, reconstruction, mainte-
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5  nance and repair of roads and highways, and for the pay-
6  ment of the interest and sinking fund on state bonds
7  issued for road purposes.
8  Unless necessary for such bond requirements, one-fifth
9  of the taxes collected under the provisions of this article
10  shall be used for secondary road purposes, until July first,
11  one thousand nine hundred forty-seven.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House

Takes effect 90 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 2nd day of March, 1945.

Governor.

Filed in the office of the Secretary of State of West Virginia, MAR 2, 1945.