

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1945

ENROLLED

HOUSE BILL No. 42

(By Mr. Henshaw)

PASSED Feb 22 1945

In Effect 90 day from Passage

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**House Bill No. 42**

(By MR. HANSBARGER)

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[Passed February 22, 1945; in effect ninety days from passage.]

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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 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;*

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,  
5 an excise tax based on the quantities of all gasoline  
6 produced, purchased, sold or used in this state, which  
7 tax shall until July first, one thousand nine hundred  
8 forty-seven, be equivalent to five cents per gallon thereof,  
9 and shall be paid as hereinafter provided. On and after  
10 July first, one thousand nine hundred forty-seven, the  
11 tax herein provided shall be equivalent to four cents  
12 per gallon.

13 A distributor, importer, or retail dealer shall use as the  
14 measure of the tax the gallonage produced, purchased,  
15 sold or used in this state (as provided in section four of

16 this article). Gallonage shall be included in the measure  
17 of the tax by refiners and producers when such gallonage  
18 has been placed into any tank from which withdrawals  
19 are made for sales or transfer to any other person.

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

27 The excise tax imposed by this article shall accrue  
28 from the date of production, purchase, sale or use of the  
29 gasoline. The penalties imposed by section thirteen of  
30 this article shall accrue from the date they become due  
31 and payable. A tax due and unpaid under this article shall  
32 be a debt due the state of West Virginia. It shall be a per-  
33 sonal obligation of the taxpayer and shall be a lien in fa-  
34 vor of the state of West Virginia upon all property and  
35 rights to property, whether real or personal, belonging to  
36 such taxpayer. The lien shall arise when a taxpayer fails

37 to file his return and remit the tax at the time required by  
38 this article. Such lien shall not be valid or enforceable  
39 against a purchaser (including lien creditor) of real estate  
40 or personal property for a valuable consideration, without  
41 notice unless docketed in the office of the clerk of the  
42 county court as provided in sections one and two, article  
43 ten-c, chapter thirty-eight of the code of West Virginia,  
44 one thousand nine hundred thirty-one, as last amended  
45 and reenacted by chapter ninety-nine, acts of the Legisla-  
46 ture, regular session, one thousand nine hundred forty-  
47 three.

48 Whenever a distributor, importer or retail dealer ceases  
49 to engage in business within this state by reason of the  
50 discontinuance, sale or transfer of the business of such  
51 distributor, importer or retail dealer, it shall be his duty  
52 to notify the tax commissioner in writing at the time of  
53 the discontinuance, sale or transfer takes effect. Such no-  
54 tice shall give the date of discontinuance and in the event  
55 of a sale or transfer of the business, the date thereof and  
56 the name and address of the purchaser or transferee  
57 thereof; all taxes accruing under this article, but not yet due

58 and payable under the provisions of this article shall, not-  
59 withstanding such provisions, become due and payable  
60 concurrently with such discontinuance, sale or transfer,  
61 and it shall be the duty of such distributor, importer or  
62 retail dealer to make a report and pay all such taxes, and  
63 to surrender to the tax commissioner the license certifi-  
64 cate theretofore issued, under the provisions of this ar-  
65 ticle.

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

Sec. 22. *Taxes to Be Used for Road Purposes.*—All  
2 taxes collected under the provisions of this article shall  
3 be paid into the state treasury and shall be used only for  
4 the purpose of the construction, reconstruction, mainte-

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.

*Charles C. Morris*  
Chairman Senate Committee

*J. Ade Brute Jr.*  
Chairman House Committee

Originated in the *House*

Takes effect *90 days from* passage.

*Thomas M. Hays*  
Clerk of the Senate

*Stiff*  
Clerk of the House of Delegates

*Amos M. Vickers*  
President of the Senate

*John E. Chaves*  
Speaker House of Delegates

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

*Wesley C. Caudle*  
Governor.



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

Wm. S. O'BRIEN,  
Secretary of State