

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1947



# ENROLLED

HOUSE BILL No. 56

(By Mr. Hansbarger)



PASSED March 7 1947

In Effect July 1, 1947 ~~Passage~~



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**ENROLLED**  
**House Bill No. 56**

(By MR. HANSBARGER)

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[Passed March 7, 1947; in effect July 1, 1947.]

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AN ACT to amend and reenact sections three and 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 one hundred forty-one, acts of the Legislature, regular session, one thousand nine hundred forty-five, relating to tax on gasoline.

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

That sections three and 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 one hundred forty-one, acts of the Legislature, regular session, one thousand nine hundred forty-five, be amended and reenacted to read as follows:

Section 3. *Amount, Duration, Measure and Lien of*  
2 *Tax; Notice of Discontinuance, etc., of Business.*—There

3 is 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 pro-  
6 duced, purchased, sold or used in this state, which tax  
7 shall until July first, one thousand nine hundred forty-  
8 nine, 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-nine, the tax here-  
11 in provided shall be equivalent to four cents per gallon.

12 A distributor, importer, or retail dealer shall use as the  
13 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 transfers 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.

25 The taxes imposed by this article are in addition to all  
26 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  
32 shall be a debt due the state of West Virginia. It shall be  
33 a personal obligation of the taxpayer and shall be a lien  
34 in favor of the state of West Virginia upon all property  
35 and rights to property, whether real or personal, belong-  
36 ing to such taxpayer. The lien shall arise when a tax-  
37 payer fails to file his return and remit the tax at the  
38 time required by this article. Such lien shall not be valid  
39 or enforceable against a purchaser (including lien cred-  
40 itor) of real estate or personal property for a valuable  
41 consideration, without notice unless docketed in the office  
42 of the clerk of the county court as provided in sections one  
43 and two, article ten-c, chapter thirty-eight of the code of

44 West Virginia, one thousand nine hundred thirty-one, as  
45 last amended and reenacted by chapter ninety-nine, acts  
46 of the Legislature, regular session, one thousand nine hun-  
47 dred forty-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  
54 notice shall give the date of discontinuance and in the  
55 event of a sale or transfer of the business, the date thereof  
56 and the name and address of the purchaser or transferee  
57 thereof; all taxes accruing under this article, but not yet  
58 due and payable under the provisions of this article shall,  
59 notwithstanding such provisions, become due and pay-  
60 able concurrently with such discontinuance, sale or trans-  
61 fer, and it shall be the duty of such distributor, importer  
62 or retail dealer to make a report and pay all such taxes,  
63 and to surrender to the tax commissioner the license cer-

64 tificate theretofore issued, under the provisions of this  
65 article.

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

Sec. 22. *Taxes to be Used for Road Purposes.*—All taxes  
2 collected under the provisions of this article shall be paid  
3 into the state treasury and shall be used only for the pur-  
4 pose of the construction, reconstruction, maintenance and  
5 repair of roads and highways, and for the payment of the  
6 interest and sinking fund on state bonds issued for road  
7 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-nine.

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

Forest L. McNear  
Chairman Senate Committee

R. L. Matthews  
Chairman House Committee

Originated in the House of Delegates

Takes effect July 1, 1947 passage.

Howard Myers  
Clerk of the Senate

L. A. Lipp  
Clerk of the House of Delegates

Arnold M. Vickers  
President of the Senate

John E. Amos  
Speaker House of Delegates

The within Approved this the 13  
day of March, 1947.

James McDaniel  
Governor.



Filed in the Office of the Secretary of State  
of West Virginia  
**MAR 13 1947**  
WM. S. O'BRIEN,  
SECRETARY OF STATE