

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949

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ENROLLED

SENATE BILL No. 152

(By Mr. Johnson.....)  
Mr. President

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PASSED March 11.....1949

In Effect July 1, 1949.....Passage



152

**ENROLLED**

**Senate Bill No. 152**

(By MR. JOHNSTON, MR. PRESIDENT)

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[Passed March 11, 1949; in effect July 1, 1949.]

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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 by chapter one hundred fifty-four, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-seven, relating to the 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 by chapter one hundred fifty-four, acts of the Legislature, regular session, one thousand nine hundred forty-seven, be amended and reenacted to read as follows:

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

2 *Notice of Discontinuance of Business.*—There is hereby  
3 imposed upon every person who is a distributor, retail  
4 dealer or importer under the terms of this article, an ex-  
5 cise tax based on the quantities of all gasoline produced,  
6 purchased, sold or used in this state, which tax shall be  
7 equivalent to five cents per gallon thereof, and shall be  
8 paid as hereinafter provided.

9 A distributor shall use as the measure of the tax the  
10 gallonage produced, purchased, sold or used in this state  
11 as provided in section four of this article). Gallonage shall  
12 be included in the measure of the tax by refiners and pro-  
13 ducers when such gallonage has been placed into any tank  
14 from which withdrawals are made for sales or transfer  
15 to any other person.

16 An importer shall use as the measure of the tax the gal-  
17 lonage purchased and received for whatever use (as pro-  
18 vided in section six of this article).

19 A retail dealer shall use as the measure of the tax the  
20 gallonage purchased or obtained by him (as provided in  
21 section five of this article).

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

28 The taxes imposed by this article are in addition to all  
29 other taxes now imposed by law.

30 The excise tax imposed by this article shall accrue from  
31 the date of production, purchase, sale or use of the gaso-  
32 line. The penalties imposed by section thirteen of this  
33 article shall accrue from the date they become due and  
34 payable. A tax due and unpaid under this article shall be  
35 a debt due the state of West Virginia. It shall be a per-  
36 sonal obligation of the taxpayer and shall be a lien in favor  
37 of the state of West Virginia upon all property and rights  
38 to property, whether real or personal, belonging to such  
39 taxpayer. The lien shall arise when a taxpayer fails to  
40 file his return and remit the tax at the time required by  
41 this article. Such lien shall not be valid or enforceable  
42 against a purchaser (including lien creditor) of real estate

43 or personal property for a valuable consideration, with-  
44 out notice unless docketed in the office of the clerk of the  
45 county court as provided in sections one and two, article  
46 ten-c, chapter thirty-eight of the code of West Virginia,  
47 one thousand nine hundred thirty-one, as last amended  
48 and reenacted by chapter ninety-nine, acts of the Legis-  
49 lature, regular session, one thousand nine hundred forty-  
50 three.

51 Whenever a distributor, importer or retail dealer ceases  
52 to engage in business within this state by reason of the dis-  
53 continuance, sale or transfer of the business of such dis-  
54 tributor, importer or retail dealer, it shall be his duty to  
55 notify the tax commissioner in writing at the time of the  
56 discontinuance, sale or transfer. Such notice shall give  
57 the date of discontinuance and in the event of a sale or  
58 transfer of the business, the date thereof and the name  
59 and address of the purchaser or transferee thereof; all  
60 taxes accruing under this article, but not yet due and  
61 payable under the provisions of this article shall, notwith-  
62 standing such provisions, become due and payable con-  
63 currently with such discontinuance, sale or transfer, and

64 it shall be the duty of such distributor, importer or retail  
65 dealer to make a report and pay all such taxes, and to sur-  
66 render to the tax commissioner the license certificate  
67 theretofore issued, under the provisions of this article.

68 Unless the notice shall have been given to the tax com-  
69 missioner as above provided, such purchaser or transferee  
70 shall be liable to the state of West Virginia for the amount  
71 of all taxes and penalties, under this article accrued  
72 against such distributor, importer or retail dealer so sell-  
73 ing or transferring his business, on the date of such sale  
74 or transfer, but only to the extent of the value of the prop-  
75 erty and business thereby acquired from such distributor,  
76 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.

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

*Frank L. Meyer*  
Chairman Senate Committee

*R. L. Matthews*  
Chairman House Committee

Originated in the Senate.

Takes effect *July 1, 1949* passage.

*Howard Myers*  
Clerk of the Senate

*J. Atkiff*  
Clerk of the House of Delegates

*W. Grayson Hunter*  
President of the Senate

*W. E. Cameron*  
Speaker House of Delegates

The within *APPROVED* this the *17<sup>th</sup>*  
day of *MARCH*, 1949.

*Okey L. Patton*  
Governor.



Filed in the Office of the Secretary of State  
of West Virginia **MAR 18 1949**

**D. PITT O'BRIEN,**  
SECRETARY OF STATE