

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1953

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## ENROLLED

SENATE BILL NO. 59

(By Mr. Love)

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PASSED March 12 1953

In Effect ninety days from Passage



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**Senate Bill No. 59**

(By MR. LOVE)

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[Passed March 12, 1953; in effect ninety days from passage.]

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AN ACT to amend and reenact sections thirteen and nineteen, 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 gasoline tax.

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

That sections thirteen and nineteen, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended 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 13. *Failure or Refusal to Make Statement or to*

2 *Pay the Tax; Penalty.*—If any distributor, retail dealer,  
3 or importer fail, neglect or refuse to make any statement  
4 required for any month or to pay the excise tax due for  
5 any month within the time prescribed for the filing of  
6 such statement or the payment of such tax, there shall  
7 automatically accrue a penalty equal to one-tenth of one  
8 cent on each gallon of gasoline on which the excise tax  
9 is due and payable in that period, or on each gallon pur-  
10 chased during that month if no excise tax is due, the  
11 amount of which penalty shall in no case be less than  
12 five dollars (or if no sales or purchases were made, a pen-  
13 alty of five dollars) such penalty to be paid or collected  
14 in the same manner as the tax imposed by this article  
15 is required to be paid or collected, unless it is determined  
16 by the tax commissioner that such failure to file the re-  
17 turn or to pay the tax within the time prescribed, was  
18 due to circumstances beyond the control of the distribu-  
19 tor, retail dealer, or importer. In the event any dis-  
20 tributor, retail dealer, or importer, fails or neglects to  
21 include any quantity of gasoline in the measure of tax

22 for any month or to pay such tax at the time the return  
23 is required to be filed, the tax commisioner shall assess  
24 and collect the penalty of one-tenth of one cent on each  
25 gallon of gasoline omitted from the measure of tax. These  
26 provisions shall apply to unpaid excise tax and penalties  
27 due prior to the first day of July, one thousand nine hun-  
28 dred fifty-three, and thereafter.

29 The tax commissioner shall notify any distributor, re-  
30 tail dealer, or importer, that fails, neglects or refuses to  
31 make any statement required for any month within the  
32 time prescribed for the filing of such statement or the  
33 payment of such tax, of such failure and if the required  
34 statement is not filed or payment of tax is not made  
35 within ten days from the date of such notification, there  
36 shall automatically accrue a penalty equal to one cent on  
37 each gallon of gasoline on which the excise tax is due  
38 and payable in that period or on each gallon purchased  
39 during that month if no excise tax is due, the amount of  
40 which penalty shall in no case be less than twenty-five  
41 dollars (or if no sales or purchases were made, a penalty  
42 of twenty-five dollars), such penalty to be paid or col-

43 lected in the same manner as the tax imposed by this  
44 article is required to be paid or collected.

Section 19. *Refund for Gasoline Exported or Lost.*—

2 Any distributor who shall export gasoline from West  
3 Virginia to any other state or nation, may be refunded a  
4 sum equal to the amount of such excise tax paid on such  
5 gallonage upon application made on proper forms to the  
6 tax commissioner within thirty days after the close of  
7 the month in which such gasoline was exported. Any  
8 distributor who shall in the conduct of his wholesale gas-  
9 oline business, sustain losses of gasoline by reason of  
10 shrinkage or evaporation, which gasoline shall have been  
11 included in the measure by which the excise tax imposed  
12 by this article is determined, shall be refunded a sum  
13 equal to the amount of such excise tax on the gallonage  
14 lost, not to exceed one and one-half of one per cent of  
15 the gallonage handled during that month which has been  
16 previously included in the measure by which the excise  
17 tax imposed by this article is determined: *Provided, how-*  
18 *ever,* That the tax commissioner shall cause refund to be  
19 made under authority of this section when application

20 for refund, as herein provided, is filed with the tax com-  
21 missioner within thirty days following the close of the  
22 month during which the gasoline was exported or lost,  
23 on forms prescribed by the tax commissioner, of the  
24 quantity of and full details concerning such gasoline ex-  
25 ported or lost: *Provided further*, That the tax commis-  
26 sioner may cause refund to be made on gasoline exported  
27 to another state or nation when such gasoline has been  
28 included in the measure of tax and the tax has been er-  
29 roneously paid to the state of West Virginia, when an  
30 application for refund of the excise tax is made within  
31 thirty days following the discovery of such erroneous  
32 payments and not more than two years after the date  
33 of such erroneous payment.

34 Every distributor shall be entitled to a refund from  
35 the state of West Virginia of the amount of gasoline tax  
36 paid by him, on any gasoline lost or destroyed, while he  
37 shall be the owner thereof, through fire, lightning, break-  
38 age, or flood: *Provided, however*, That such distributor  
39 shall notify the tax commissioner in writing of such loss  
40 or destruction, and the quantity of gasoline lost or de-

41 stroyed, within ten days after the date of discovery of  
42 such loss or destruction: *Provided further*, That within  
43 thirty days after the discovery of such loss or destruc-  
44 tion, such distributor shall file with the tax commissioner  
45 an affidavit sworn to by him, setting forth in full the  
46 circumstances and quantity of the loss or destruction,  
47 and such other information with respect thereto as the  
48 tax commissioner may require.

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

*H. McKelvey*  
Chairman Senate Committee

*H. Auer*  
Chairman House Committee

Originated in the Senate.

Takes effect *ninety days from* passage.

*Howard Hughes*  
Clerk of the Senate

*Shiff*  
Clerk of the House of Delegates

*Carlson*  
President of the Senate

*W. H. ...*  
Speaker House of Delegates

The within *approved* this the *16th*

day of *March*, 1953.

*William C. Marland*  
Governor.



FILED IN THE OFFICE OF THE SECRETARY OF STATE

**MAR 16 1953**  
D. PITT O'BRIEN,  
SECRETARY OF STATE