WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1953

ENROLLED

SENATE BILL NO. 59

(By Mr.)

PASSED March 12, 1953
In Effect Ninety days from Passage
ENROLLED

Senate Bill No. 59
(By MR. LOVE)

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

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 Pay the Tax; Penalty.*—If any distributor, retail dealer, or importer fail, neglect or refuse to make any statement required for any month or to pay the excise tax due for any month within the time prescribed for the filing of such statement or the payment of such tax, there shall automatically accrue a penalty equal to one-tenth of one cent on each gallon of gasoline on which the excise tax is due and payable in that period, or on each gallon purchased during that month if no excise tax is due, the amount of which penalty shall in no case be less than five dollars (or if no sales or purchases were made, a penalty of five dollars) such penalty to be paid or collected in the same manner as the tax imposed by this article is required to be paid or collected, unless it is determined by the tax commissioner that such failure to file the return or to pay the tax within the time prescribed, was due to circumstances beyond the control of the distributor, retail dealer, or importer. In the event any distributor, retail dealer, or importer, fails or neglects to include any quantity of gasoline in the measure of tax
for any month or to pay such tax at the time the return
is required to be filed, the tax commissioner shall assess
and collect the penalty of one-tenth of one cent on each
gallon of gasoline omitted from the measure of tax. These
provisions shall apply to unpaid excise tax and penalties
due prior to the first day of July, one thousand nine hun-
dred fifty-three, and thereafter.

The tax commissioner shall notify any distributor, re-
tail dealer, or importer, that fails, neglects or refuses to
make any statement required for any month within the
time prescribed for the filing of such statement or the
payment of such tax, of such failure and if the required
statement is not filed or payment of tax is not made
within ten days from the date of such notification, there
shall automatically accrue a penalty equal to one cent on
each gallon of gasoline on which the excise tax is due
and payable in that period or on each gallon purchased
during that month if no excise tax is due, the amount of
which penalty shall in no case be less than twenty-five
dollars (or if no sales or purchases were made, a penalty
of twenty-five dollars), such penalty to be paid or col-
lected in the same manner as the tax imposed by this article is required to be paid or collected.

Section 19. Refund for Gasoline Exported or Lost.—

Any distributor who shall export gasoline from West Virginia to any other state or nation, may be refunded a sum equal to the amount of such excise tax paid on such gallonage upon application made on proper forms to the tax commissioner within thirty days after the close of the month in which such gasoline was exported. Any distributor who shall in the conduct of his wholesale gasoline business, sustain losses of gasoline by reason of shrinkage or evaporation, which gasoline shall have been included in the measure by which the excise tax imposed by this article is determined, shall be refunded a sum equal to the amount of such excise tax on the gallonage lost, not to exceed one and one-half of one per cent of the gallonage handled during that month which has been previously included in the measure by which the excise tax imposed by this article is determined: Provided, however, That the tax commissioner shall cause refund to be made under authority of this section when application
for refund, as herein provided, is filed with the tax commissioner within thirty days following the close of the month during which the gasoline was exported or lost, on forms prescribed by the tax commissioner, of the quantity of and full details concerning such gasoline exported or lost: Provided further, That the tax commissioner may cause refund to be made on gasoline exported to another state or nation when such gasoline has been included in the measure of tax and the tax has been erroneously paid to the state of West Virginia, when an application for refund of the excise tax is made within thirty days following the discovery of such erroneous payments and not more than two years after the date of such erroneous payment.

Every distributor shall be entitled to a refund from the state of West Virginia of the amount of gasoline tax paid by him, on any gasoline lost or destroyed, while he shall be the owner thereof, through fire, lightning, breakage, or flood: Provided, however, That such distributor shall notify the tax commissioner in writing of such loss or destruction, and the quantity of gasoline lost or de-
stroyed, within ten days after the date of discovery of
such loss or destruction: *Provided further,* That within
thirty days after the discovery of such loss or destruc-
tion, such distributor shall file with the tax commissioner
an affidavit sworn to by him, setting forth in full the
circumstances and quantity of the loss or destruction,
and such other information with respect thereto as the
tax commissioner may require.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

Takes effect ninety 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 16th day of March, 1953.

Governor.

This in the Office of the Secretary of State
of West Virginia
MAR 16 1953
D. Pitt O'Brien,
Secretary of State