

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1955



# ENROLLED

HOUSE BILL No. 158

(By Mr. Hammer)



PASSED Mar 12 1955

In Effect 90 days for Passage



Filed in the Office of the Secretary of State  
of West Virginia **MAR 18 1955**  
D. PITT O'BRIEN  
SECRETARY OF STATE

**ENROLLED**

**House Bill No. 158**

(By MR. SPEAKER, MR. FLANNERY)

[Passed March 12, 1955; in effect ninety days from passage.]

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 amended, relating to the 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 amended, be amended and reenacted to read as follows:

Section 3. *Amount, Measure and Lien of Tax; Notice of Discontinuance of Business.*—There is hereby imposed upon every person who is a distributor, retail dealer or importer under the terms of this article, an excise tax based on the quantities of all gasoline produced, purchased, sold or used in this state, which tax shall be

7 equivalent to six cents per gallon on all gasoline. The  
8 tax shall be paid as hereinafter provided.

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

17 An importer shall use as the measure of the tax the  
18 gallonage purchased and received for whatever use, as  
19 provided in section six of this article.

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

23 The excise tax imposed by this article shall be paid by  
24 the person first producing, or receiving in this state, the  
25 gallonage of gasoline which under this article shall form  
26 the measure of such tax; but in no case shall any such

27 gallonage be used more than once in determining taxes  
28 due hereunder.

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

31 The excise tax imposed by this article shall accrue from  
32 the date of production, purchase, sale or use of the gaso-  
33 line. The penalties imposed by section thirteen of this  
34 article shall accrue from the date they become due and  
35 payable. A tax due and unpaid under this article shall be  
36 a debt due the state of West Virginia. It shall be a per-  
37 sonal obligation of the taxpayer and shall be a lien in  
38 favor of the state of West Virginia upon all property and  
39 rights to property, whether real or personal, belonging  
40 to such taxpayer. The lien shall arise when a taxpayer  
41 fails to file his return and remit the tax at the time re-  
42 quired by this article. Such lien shall not be valid or  
43 enforceable against a purchaser, including lien creditor,  
44 of real estate or personal property for a valuable consider-  
45 ation, without notice, unless docketed in the office of the  
46 clerk of the county court as provided in sections one and  
47 two, article ten-c, chapter thirty-eight of the code of West

48 Virginia, one thousand nine hundred thirty-one, as last  
49 amended and reenacted by chapter ninety-nine, acts of  
50 the Legislature, regular session, one thousand nine hun-  
51 dred forty-three.

52 Whenever a distributor, importer or retail dealer ceases  
53 to engage in business within this state by reason of the  
54 discontinuance, sale or transfer of the business of such  
55 distributor, importer or retail dealer, it shall be his duty  
56 to notify the tax commissioner in writing at the time of  
57 the discontinuance, sale or transfer. Such notice shall  
58 give the date of discontinuance and in the event of a sale  
59 or transfer of the business, the date thereof and the name  
60 and address of the purchaser or transferee thereof; all  
61 taxes accruing under this article, but not yet due and  
62 payable under the provisions of this article shall, not-  
63 withstanding such provisions, become due and payable  
64 concurrently with such discontinuance, sale or transfer,  
65 and it shall be the duty of such distributor, importer or  
66 retail dealer to make a report and pay all such taxes, and  
67 to surrender to the tax commissioner the license certificate  
68 theretofore issued, under the provisions of this article.

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

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

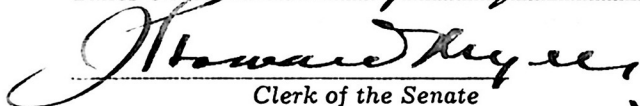
  
Chairman Senate Committee

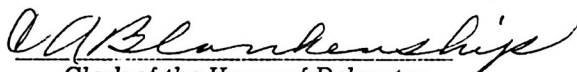
  
Chairman House Committee

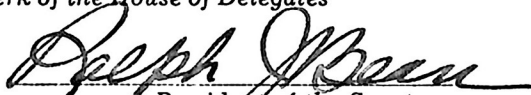


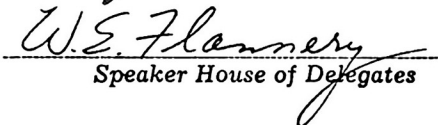
Originated in the House of Delegates

Takes effect 90 days from passage.

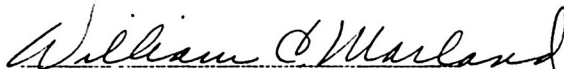
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker House of Delegates

The within approved this the 12  
day of March, 1955.

  
Governor



Filed in the Office of the Secretary of State  
of West Virginia MAR 18 1955  
D. PITT O'BRIEN  
SECRETARY OF STATE