

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1959

ENROLLED

SENATE BILL NO. 216

(By Mr. Ballard)

PASSED March 6, 1959

In Effect April 1, 1959 Passage



Filed in Office of the Secretary of State
of West Virginia MAR 12 1959
JOE F. BURDETT
SECRETARY OF STATE

216

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Senate Bill No. 216

(By MR. BALLARD)

[Passed March 6, 1959; in effect April 1, 1959.]

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 amended, relating to the imposition of an excise tax on the sale of gasoline produced, purchased, sold or used in this state; purposes for which tax to be used and penalties for violations.

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

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

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

A retail dealer shall use as the measure of the tax the gallonage purchased or obtained by him, as provided in 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 gal-
26 lonage be used more than once in determining taxes due
27 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 ar-
33 ticle shall accrue from the date they become due and pay-
34 able. A tax due and unpaid under this article shall be a
35 debt due the state of West Virginia. It shall be a personal
36 obligation of the taxpayer and shall be a lien in favor of
37 the state of West Virginia upon all property and rights to
38 property, whether real or personal, belonging to such tax-
39 payer. The lien shall arise when a taxpayer fails to file
40 his return and remit the tax at the time required by this
41 article. Such lien shall not be valid or enforceable against
42 a purchaser, including lien creditor, of real estate or per-

43 sonal property for a valuable consideration without no-
44 tice, unless docketed in the office of the clerk of the county
45 court as provided in sections one and two, article ten-c,
46 chapter thirty-eight of the code of West Virginia, one
47 thousand nine hundred thirty-one, as last amended and
48 reenacted by chapter ninety-nine, acts of the legislature,
49 regular session, one thousand nine hundred forty-three.

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

64 dealer to make a report and pay all such taxes, and to sur-
65 render to the tax commissioner the license certificate
66 theretofore issued, under the provisions of this article.

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

76 The revenue provided from one cent tax per gallon on
77 gasoline imposed or levied by this section shall be used
78 for matching federal funds allocated for the interstate
79 road system in West Virginia.

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, payment of the interest and

6 sinking fund on state bonds issued for road purposes and
7 the cost of administration and enforcement of this article
8 by the tax commissioner, which cost of administration and
9 enforcement shall not exceed one half of one per cent of
10 the total net gasoline excise tax collections during the fis-
11 cal year commencing July one, one thousand nine hundred
12 fifty-nine, and each fiscal year thereafter.

13 Unless necessary for such bond requirements, two sev-
14 entshs of the taxes collected under the provisions of this
15 article shall be used for secondary road purposes.

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

W. R. Jasper Jr.
Chairman Senate Committee

Eudora Andrews
Chairman House Committee

Originated in the Senate.

Takes effect *April 1, 1959* passage.

J. Howard Meyers
Clerk of the Senate

Ch Blankenship
Clerk of the House of Delegates

Ralph Beem
President of the Senate

H. R. Pauley
Speaker House of Delegates

The within *approved* this the *12th*
day of *March*, 1959.

Gift Henderson
Governor

