

277

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1961

ENROLLED

SENATE BILL NO. 277

(By Mr. Jackson)

PASSED March 10th 1961

In Effect from Passage



Filed in Office of the Secretary of State
of West Virginia MAR 17 1961
JOE F. BURDETT
SECRETARY OF STATE

ENROLLED
Senate Bill No. 277
(By MR. JACKSON)

[Passed March 10, 1961; in effect 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 gasoline tax, and particularly the amount, measure and lien of tax and notice of discontinuance of business.

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*
2 *Discontinuance of Business.*—There is hereby imposed
3 upon every person who is a distributor, retail dealer or

4 importer under the terms of this article, an excise tax
5 based on the quantities of all gasoline produced, pur-
6 chased, sold or used in this state, which tax shall be equiv-
7 alent to seven cents per gallon on all gasoline. The tax
8 shall be 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
14 tank from which withdrawals are made for sales or trans-
15 fer to any other person.

16 An importer shall use as the measure of the tax the
17 gallonage purchased and received for whatever use, as
18 provided 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
35 be 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 fa-
37 vor of the state of West Virginia upon all property and
38 rights to property, whether real or personal, belonging to
39 such taxpayer. The lien shall arise when a taxpayer fails
40 to file his return and remit the tax at the time required
41 by 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 without
44 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
53 discontinuance, sale or transfer of the business of such
54 distributor, importer or retail dealer, it shall be his duty
55 to notify the tax commissioner in writing at the time of
56 the discontinuance, sale or transfer. Such notice shall
57 give the date of discontinuance and in the event of the
58 sale or transfer of the business the date thereof and the
59 name and address of the purchaser or transferee thereof;
60 all taxes accruing under this article, but not yet due and
61 payable under the provisions of this article shall, not-
62 withstanding such provisions, become due and payable
63 concurrently with such discontinuance, sale or transfer,
64 and it shall be the duty of such distributor, importer or
65 retail dealer to make a report and pay all such taxes, and
66 to surrender to the tax commissioner the license certifi-

67 cate theretofore issued, under the provisions of this ar-
68 ticle.

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 the 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.

78 Any unexpended and unobligated revenue derived from
79 the one cent tax per gallon on gasoline imposed or levied
80 by chapter one hundred sixty-nine, acts of the legislature,
81 regular session, one thousand nine hundred fifty-nine, to
82 match federal funds allocated for the interstate road sys-
83 tem in West Virginia, shall be used only for the purposes
84 set out in section twenty-two of this article.

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

Thomas Davis, Jr.
Chairman Senate Committee

Mrs. H. H. Withrow
Chairman House Committee

Originated in the Senate.

Takes effect *from* passage.

Thomas M. Mays
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

Julius W. Singletary, Jr.
Speaker House of Delegates

The within *approved* this the *17th*
day of *March*, 1961.

Wm. Barr
Governor



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JOE F. BURDETTE
SECRETARY OF STATE