WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1963

ENROLLED
SENATE BILL NO. 243

(By Mr. McCourt)

PASSED March 2, 1963

In Effect From Passage

Filed in Office of the Secretary of State
of West Virginia 3-12-63
JOE F. BURDETT
SECRETARY OF STATE
AN ACT to amend and reenact sections four and fourteen, article fourteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the motor carrier road tax.

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

That sections four and fourteen, article fourteen-a, 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 4. Credit for Payment of Gasoline Tax; Refunds; Hearing upon Commissioner's Refusal to Make Refund; Appeals.**—Every motor carrier subject to the tax herein imposed shall be entitled to a credit on such
tax equivalent to the amount of tax per gallon of gasoline assessed by article fourteen of this chapter on all gasoline purchased by such carrier within this state for use in operations either within or without this state and upon which gasoline the tax imposed by the laws of this state has been paid: Provided, That such credit shall not be allowed for any gasoline taxes for which any person, firm or corporation has applied, or received, a refund of gasoline taxes under sections nineteen and twenty of article fourteen of this chapter. Evidence of the payment of such tax in such form as may be required by the commissioner shall be furnished by each motor carrier claiming the credit herein allowed. When the amount of the credit herein provided exceeds the amount of the tax for which the carrier is liable for the same quarter, such excess shall, under regulations of the commissioner, be allowed as a credit on the tax for which the carrier would be otherwise liable for any of the four succeeding quarters. The commissioner is, under regulations to be established by him, hereby authorized to refund from the funds collected under the provisions of this article and article four-
teen of this chapter the amount of the credit, if the motor
carrier by duly filed petition requests the commissioner
to do so and the commissioner is satisfied that said motor
carrier is entitled to said refund and that said motor car-
rrier has not applied for a refund of the tax imposed by
article fourteen of this chapter: Provided, however, That
such refund shall not be made until after audit of the
applicant's records by the commissioner or upon the post-
ing of a surety company bond by the applicant in an
amount fixed by the commissioner conditioned to pay all
road taxes due hereunder: Provided further, That said
credit or refund shall in no case be allowed to reduce the
amount of tax to be paid by a motor carrier below the
amount due as tax on gasoline used in this state as pro-
vided by article fourteen of this chapter. If the commis-
sioner shall refuse to allow a refund or credit in the
amount claimed by the applicant, the applicant may re-
quest a hearing on said application. Such hearing shall
be held within a reasonable time after such request is
made and after notice to the applicant of not less than ten
days.
The hearing shall be informal and may be conducted by an examiner designated by the tax commissioner. At such hearing evidence may be offered in support of the claim of credit or refund or to prove that such claim is incorrect. After such hearing the tax commissioner shall, within a reasonable time, give notice in writing of the decision. Unless an appeal is taken within thirty days from the service of this notice, the tax commissioner's decision shall be final.

An appeal may be taken by the taxpayer to the circuit court of Kanawha county, within thirty days after he shall have received notice from the tax commissioner of his determination as provided in this section.

The court shall hear the appeal, and determine anew all questions submitted to it on appeal from the determination of the tax commissioner. The court shall render its decree thereon and a certified copy of said decree shall be filed by the clerk of said court with the tax commissioner who shall then correct his decision accordingly and allow the credit or refund as decreed by said court.
An appeal may be taken by the taxpayer or the tax commissioner to the supreme court of appeals of this state.

Sec. 14. Enforcement; Assistance of Department of Public Safety.—The tax commissioner, or any employee of the gasoline tax division so designated by him, shall have the same powers and authority to enforce the provisions of this article as are available to him for the enforcement of article fourteen of this chapter.

The state department of public safety is hereby authorized and may be requested to assist in the enforcement of the provisions of this article as directed by the tax commissioner.
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 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 11th day of March, 1963.

Governor