

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

243

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Senate Bill No. 243

(By MR. McCOURT)

[Passed March 2, 1963; in effect from passage.]

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; Re-
2 funds; Hearing upon Commissioner's Refusal to Make
3 Refund; Appeals.—Every motor carrier subject to the
4 tax herein imposed shall be entitled to a credit on such

5 tax equivalent to the amount of tax per gallon of gasoline
6 assessed by article fourteen of this chapter on all gasoline
7 purchased by such carrier within this state for use in
8 operations either within or without this state and upon
9 which gasoline the tax imposed by the laws of this state
10 has been paid: *Provided*, That such credit shall not be
11 allowed for any gasoline taxes for which any person, firm
12 or corporation has applied, or received, a refund of gaso-
13 line taxes under sections nineteen and twenty of article
14 fourteen of this chapter. Evidence of the payment of such
15 tax in such form as may be required by the commissioner
16 shall be furnished by each motor carrier claiming the
17 credit herein allowed. When the amount of the credit
18 herein provided exceeds the amount of the tax for which
19 the carrier is liable for the same quarter, such excess
20 shall, under regulations of the commissioner, be allowed
21 as a credit on the tax for which the carrier would be oth-
22 erwise liable for any of the four succeeding quarters. The
23 commissioner is, under regulations to be established by
24 him, hereby authorized to refund from the funds col-
25 lected under the provisions of this article and article four-

26 teen of this chapter the amount of the credit, if the motor
27 carrier by duly filed petition requests the commissioner
28 to do so and the commissioner is satisfied that said motor
29 carrier is entitled to said refund and that said motor car-
30 rier has not applied for a refund of the tax imposed by
31 article fourteen of this chapter: *Provided, however,* That
32 such refund shall not be made until after audit of the
33 applicant's records by the commissioner or upon the post-
34 ing of a surety company bond by the applicant in an
35 amount fixed by the commissioner conditioned to pay all
36 road taxes due hereunder: *Provided further,* That said
37 credit or refund shall in no case be allowed to reduce the
38 amount of tax to be paid by a motor carrier below the
39 amount due as tax on gasoline used in this state as pro-
40 vided by article fourteen of this chapter. If the commis-
41 sioner shall refuse to allow a refund or credit in the
42 amount claimed by the applicant, the applicant may re-
43 quest a hearing on said application. Such hearing shall
44 be held within a reasonable time after such request is
45 made and after notice to the applicant of not less than ten
46 days.

47 The hearing shall be informal and may be conducted by
48 an examiner designated by the tax commissioner. At
49 such hearing evidence may be offered in support of the
50 claim of credit or refund or to prove that such claim is in-
51 correct. After such hearing the tax commissioner shall,
52 within a reasonable time, give notice in writing of the de-
53 cision. Unless an appeal is taken within thirty days from
54 the service of this notice, the tax commissioner's decision
55 shall be final.

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

60 The court shall hear the appeal, and determine anew
61 all questions submitted to it on appeal from the determi-
62 nation of the tax commissioner. The court shall render
63 its decree thereon and a certified copy of said decree shall
64 be filed by the clerk of said court with the tax commis-
65 sioner who shall then correct his decision accordingly and
66 allow the credit or refund as decreed by said court.

67 An appeal may be taken by the taxpayer or the tax
68 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
2 the gasoline tax division so designated by him, shall have
3 the same powers and authority to enforce the provisions
4 of this article as are available to him for the enforcement
5 of article fourteen of this chapter.
6

7 The state department of public safety is hereby author-
8 ized and may be requested to assist in the enforcement of
9 the provisions of this article as directed by the tax com-
10 missioner.

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

D. Roy Parker
Chairman Senate Committee

Ethel L. Crandall
Chairman House Committee

Originated in the Senate.

Takes effect From passage.

J. Howard Myers
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

Howard Robinson
President of the Senate

Julius W. Singleton Jr.
Speaker House of Delegates

The within approved this the 11th
day of March, 1963.

W. M. Barron
Governor