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STATE OF WEST VIRGINIA

**WEST VIRGINIA LEGISLATURE**  
REGULAR SESSION, 1970



**ENROLLED**

*Committee Substitute for*  
**HOUSE BILL No. 676**

(By ~~Mr.~~ *Originating in the* \_\_\_\_\_ )  
*Committee on Finance*)



PASSED *February 12,* 1970

In Effect *July 1, 1970* Passage



676

FILED IN THE OFFICE  
JOHN D. ROCKEFELLER, IV  
SECRETARY OF STATE  
THIS DATE *2-19-70*

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**House Bill No. 676**

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(Originating in the Committee on Finance)

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[Passed February 12, 1970; in effect July 1, 1970.]

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AN ACT to amend and reenact sections three and twenty-a, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the gasoline excise tax, the amount thereof, the measure of lien for such tax, notice of discontinuance of business, and partial refund of such taxes when used by certain bus lines.

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

That sections three and twenty-a, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hun-

dred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 14. GASOLINE TAX.**

**§11-14-3. Amount, measure and lien of tax; notice of discontinuance of business.**

1 There is hereby imposed upon every person who is  
2 a distributor, retail dealer or importer under the terms  
3 of this article, an excise tax based on the quantities of  
4 all gasoline produced, purchased, sold or used in this  
5 state, which tax shall be equivalent to eight and one-half  
6 cents per gallon on all gasoline. The tax shall be paid  
7 as hereinafter provided.

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

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

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

21 The excise tax imposed by this article shall be paid  
22 by the person first producing, or receiving in this state,  
23 the gallonage of gasoline which under this article shall  
24 form the measure of such tax; but in no case shall any  
25 such gallonage be used more than once in determining  
26 taxes due hereunder.

27 The taxes imposed by this article are in addition to  
28 all other taxes now imposed by law.

29 The excise tax imposed by this article shall accrue from  
30 the date of production, purchase, sale or use of the gaso-  
31 line. The penalties imposed by section thirteen of this  
32 article shall accrue from the date they become due and  
33 payable. A tax due and unpaid under this article shall  
34 be a debt due the state of West Virginia. It shall be a  
35 personal obligation of the taxpayer and shall be a lien  
36 in favor of the state of West Virginia upon all property  
37 and rights to property, whether real or personal, be-  
38 longing to such taxpayer. The lien shall arise when a

39 taxpayer fails to file his return and remit the tax at the  
40 time required by this article. Such lien shall not be  
41 valid or enforceable against a purchaser, including lien  
42 creditor, of real estate or personal property for a valuable  
43 consideration without notice, unless docketed in the office  
44 of the clerk of the county court as provided in sections  
45 one and two, article ten-c, chapter thirty-eight of the  
46 code of West Virginia, one thousand nine hundred thirty-  
47 one, as last amended and reenacted by chapter ninety-  
48 nine, acts of the Legislature, regular session, one thousand  
49 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  
58 the name and address of the purchaser or transferee  
59 thereof; all taxes accruing under this article, but not yet

60 due and payable under the provisions of this article,  
61 shall, notwithstanding such provisions, become due and  
62 payable concurrently with such discontinuance, sale or  
63 transfer, and it shall be the duty of such distributor,  
64 importer or retail dealer to make a report and pay all  
65 such taxes, and to surrender to the tax commissioner  
66 the license certificate theretofore issued, under the pro-  
67 visions of this article.

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

77 Any unexpended and unobligated revenue derived from  
78 the one cent tax per gallon on gasoline imposed or levied  
79 by chapter one hundred sixty-nine, acts of the Legislature,  
80 regular session, one thousand nine hundred fifty-nine, to

81 match federal funds allocated for the interstate road  
82 system in West Virginia, shall be used only for the pur-  
83 poses set out in section twenty-two of this article.

**§11-14-20a. Partial refund of tax on gasoline used by busses.**

1 Any person who shall buy in quantities of twenty-five  
2 gallons or more, at any one time, gasoline as defined by  
3 this article, for use in any vehicle or vehicles regularly  
4 operated by such person under a certificate of public  
5 convenience and necessity or under a contract carrier  
6 permit for transportation of persons, may, if the gasoline  
7 tax imposed by this article shall have previously been  
8 paid upon such gasoline, be refunded an amount equal  
9 to four and one-half cents per gallon for each gallon of  
10 gasoline upon which tax has been paid, upon presenting  
11 to the tax commissioner an affidavit accompanied by  
12 proof of such purchases as required in section twenty and  
13 in the manner and subject to the requirements as therein  
14 set forth. The right to a refund under this section shall  
15 not be assignable, and any assignment so made shall be  
16 void.

17 Notwithstanding any other provision of law, no refund  
18 shall be made under authority of this section except on

19 gasoline and motor fuel used in the operation of urban  
20 or suburban bus lines in this state, which are hereby de-  
21 fined as bus lines the majority of whose passengers use  
22 the buses for traveling a distance of not exceeding forty  
23 miles, measured one way, on the same day between their  
24 places of abode and their places of work, shopping areas  
25 or schools.

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

William Tomper  
Chairman Senate Committee

Clayton C. Davidson  
Chairman House Committee

Originated in the House.

Takes effect July 1, 1970.

Howard Hayes  
Clerk of the Senate

W. Blankenship  
Clerk of the House of Delegates

Langston Johnson  
President of the Senate

Sam F. Bowers  
Speaker House of Delegates

The within appeared this the 18th  
day of February, 1970.

Arch A. Shouse Jr.  
Governor



PRESENTED TO THE  
GOVERNOR

Date 2/16/70

Time 2:40 p.m.