ENROLLED

Committee Substitute for

HOUSE BILL No. 564

(By Mr. Originating in the
   Committee on Finance)

PASSED February 12, 1970

In Effect July 1, 1970

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1970
ENROLLED
COMMITTEE SUBSTITUTE
FOR
House Bill No. 676

(Originating in the Committee on Finance)

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

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.
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.

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

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

The excise tax imposed by this article shall accrue from the date of production, purchase, sale or use of the gasoline. The penalties imposed by section thirteen of this article shall accrue from the date they become due and payable. A tax due and unpaid under this article shall be a debt due the state of West Virginia. It shall be a personal obligation of the taxpayer and shall be a lien in favor of the state of West Virginia upon all property and rights to property, whether real or personal, belonging to such taxpayer. The lien shall arise when a
taxpayer fails to file his return and remit the tax at the
time required by this article. Such lien shall not be
valid or enforceable against a purchaser, including lien
creditor, of real estate or personal property for a valuable
consideration without notice, unless docketed in the office
of the clerk of the county court as provided in sections
one and two, article ten-c, chapter thirty-eight of the
code of West Virginia, one thousand nine hundred thirty-
one, as last amended and reenacted by chapter ninety-
nine, acts of the Legislature, regular session, one thousand
nine hundred forty-three.

Whenever a distributor, importer or retail dealer ceases
to engage in business within this state by reason of the
discontinuance, sale or transfer of the business of such
distributor, importer or retail dealer, it shall be his duty
to notify the tax commissioner in writing at the time of
the discontinuance, sale or transfer. Such notice shall
give the date of discontinuance, and in the event of the
sale or transfer of the business, the date thereof and
the name and address of the purchaser or transferee
thereof; all taxes accruing under this article, but not yet
due and payable under the provisions of this article,
shall, notwithstanding such provisions, become due and
payable concurrently with such discontinuance, sale or
transfer, and it shall be the duty of such distributor,
importer or retail dealer to make a report and pay all
such taxes, and to surrender to the tax commissioner
the license certificate theretofore issued, under the pro-
visions of this article.

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

Any unexpended and unobligated revenue derived from
the one cent tax per gallon on gasoline imposed or levied
by chapter one hundred sixty-nine, acts of the Legislature,
regular session, one thousand nine hundred fifty-nine, to
§11-14-20a. Partial refund of tax on gasoline used by busses.

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

Notwithstanding any other provision of law, no refund shall be made under authority of this section except on
gasoline and motor fuel used in the operation of urban or suburban bus lines in this state, which are hereby defined as bus lines the majority of whose passengers use the buses for traveling a distance of not exceeding forty miles, measured one way, on the same day between their places of abode and their places of work, shopping areas or schools.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tampor
Chairman Senate Committee

Clayton E. Davidson
Chairman House Committee

Originated in the House.

Takes effect July 1, 1970.

J. Howard Negy
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Lloyd Johnson
President of the Senate

Jim C. Bullock
Speaker House of Delegates

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

Richard J. Snare Jr.
Governor