

WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1970



ENROLLED

HOUSE BILL No. 10

(By Mr. Boiansky <sup>and</sup> Mr. Seibert)



PASSED June 19, 1970

In Effect June Passage



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FILED IN THE OFFICE  
JOHN D. ROCKEFELLER, IV  
SECRETARY OF STATE  
THIS DATE 6-23-70

**ENROLLED**

# House Bill No. 10

(By MR. SPEAKER, MR. BOLARSKY, and MR. SEIBERT)

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[Passed June 19, 1970; in effect from passage.]

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AN ACT to amend and reenact section nineteen, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section three-a, all relating to the effect of rate changes in the gasoline tax on gasoline on hand or in inventory; and providing for payment of additional gasoline tax or refund of gasoline tax.

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

That section nineteen, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said

article be further amended by adding thereto a new section, designated section three-a, all to read as follows:

**ARTICLE 14. GASOLINE TAX.**

**§11-14-3a. Effect of rate changes; gasoline on hand or in inventory.**

1 It is hereby declared to be the intent of the Legis-  
2 lature that one rate of excise tax be applicable to all  
3 quantities of gasoline in this state on and after the effec-  
4 tive date of any change of rate, whether increasing or  
5 decreasing such rate, under the provisions of this article.  
6 Any gasoline, on hand or in inventory, on the effective  
7 date of any rate change is hereby deemed to have been  
8 purchased or received on such date.

9 Every distributor, retail dealer or importer subject to  
10 the taxes imposed under the provisions of this article,  
11 who, on the effective date of any rate change, has on  
12 hand or in inventory any gasoline, upon which tax or  
13 any portion thereof has been previously paid and ac-  
14 crued, shall take a physical inventory and shall file a  
15 report thereof with the tax commissioner, in the form  
16 as prescribed by the tax commissioner, within thirty days  
17 thereafter, and shall pay to the tax commissioner at the

18 time of filing such report, any additional tax due under  
19 an increased rate and shall be entitled to refund of tax,  
20 under any decrease of rate, as provided in section nine-  
21 teen of this article.

**§11-14-19. Refund for gasoline exported, lost or from change  
of rate.**

1 Any distributor who shall export gasoline from West  
2 Virginia to any other state or nation, may be refunded  
3 a sum equal to the amount of such excise tax paid on  
4 such gallonage upon application made on proper forms  
5 to the tax commissioner within thirty days after the  
6 close of the month in which such gasoline was exported.  
7 Any distributor who shall in the conduct of his wholesale  
8 gasoline business, sustain losses of gasoline by reason  
9 of shrinkage or evaporation, which gasoline shall have  
10 been included in the measure by which the excise tax  
11 imposed by this article is determined, shall be refunded  
12 a sum equal to the amount of such excise tax on the  
13 gallonage lost, not to exceed one and one half of one  
14 percent of the gallonage handled during that month  
15 which has been previously included in the measure by  
16 which the excise tax imposed by this article is deter-

17 mined: *Provided*, That the tax commissioner shall cause  
18 refund to be made under authority of this section when  
19 application for refund, as herein provided, is filed with  
20 the tax commissioner within thirty days following the  
21 close of the month during which the gasoline was ex-  
22 ported or lost, on forms prescribed by the tax commis-  
23 sioner, of the quantity of and full details concerning  
24 such gasoline exported or lost: *Provided, however*, That  
25 the tax commissioner may cause refund to be made on  
26 gasoline exported to another state or nation when such  
27 gasoline has been included in the measure of tax, and  
28 the tax has been erroneously paid to the state of West  
29 Virginia, when an application for refund of the excise  
30 tax is made within thirty days following the discovery  
31 of such erroneous payment and not more than two years  
32 after the date of such erroneous payment.

33 Every distributor shall be entitled to a refund from  
34 the state of West Virginia of the amount of gasoline tax  
35 paid by him, on any gasoline lost or destroyed, while he  
36 shall be the owner thereof, through fire, lightning, break-  
37 age or flood: *Provided further*, That such distributor

38 shall notify the tax commissioner in writing of such  
39 loss or destruction, and the quantity of gasoline lost or  
40 destroyed, within ten days after the date of discovery  
41 of such loss or destruction: *And provided further*, That  
42 within thirty days after the discovery of such loss or de-  
43 struction, such distributor shall file with the tax com-  
44 missioner an affidavit sworn to by him, setting forth in  
45 full the circumstances and quantity of the loss or de-  
46 struction, and such other information with respect thereto  
47 as the tax commissioner may require.

48 Every distributor, retail dealer or importer shall be en-  
49 titled to a refund from the state of West Virginia of the  
50 amount resulting from a change of rate decreasing the  
51 tax under the provisions of this article on gasoline on  
52 hand and in inventory on the effective date of such rate  
53 change, which gasoline shall have previously been in-  
54 cluded in the measure by which the excise tax imposed  
55 by this article is determined and previously paid by him:  
56 *Provided*, That such distributor, retail dealer or importer  
57 shall take a physical inventory, on the effective date of  
58 such rate change and file a report with the tax commis-

59 sioner, in the form prescribed by the tax commissioner,  
60 within thirty days after the effective date of the rate  
61 change.

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

William Tompos  
Chairman Senate Committee

Clayton C. Davidson  
Chairman House Committee

Originated in the House.

Takes effect from passage.

Samuel Meyer  
Clerk of the Senate

C. Blankenship  
Clerk of the House of Delegates

Floyd Jackson  
President of the Senate

June F. Bevis  
Speaker House of Delegates

The within approved this the 22<sup>nd</sup>  
day of June, 1970.

Arch A. Shaare, Jr.  
Governor



PRESENTED TO THE  
GOVERNOR

Date 6/22/70  
Time 7:40 p.m.

RECEIVED

JUN 23 9 46 AM '70

OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA