WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976

ENROLLED

HOUSE BILL No. 763

(By Mr. Smith & Mr. Childers)

PASSED March 2, 1976

In Effect ninety days from Passage

FILED IN THE OFFICE OF SECRETARY OF STATE OF WEST VIRGINIA

THIS DATE 3/10/76
AN ACT to amend and reenact section eleven, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the refund of tax paid on fuel because of certain nonhighway uses; time for filing of application for refund of tax paid on gasoline used for agricultural purposes; and to further amend said article by adding thereto a new section, designated section eleven-a, relating to the refund of tax paid on fuel used by volunteer fire departments, nonprofit ambulance services and emergency rescue services; time for filing of application for refund; and certification by county commission to state tax commissioner that organization is bona fide nonprofit organization.

Be it enacted by the Legislature of West Virginia:

That section eleven, 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 eleven-a, all to read as follows:

ARTICLE 14. GASOLINE AND SPECIAL FUEL EXCISE TAX.

§11-14-11. Refund of tax because of certain nonhighway uses.

1 The tax imposed by this article shall be refunded to any person who shall buy in quantities of twenty-five gallons or more, at any one time, tax-paid gasoline or special fuel, when consumed for the following purposes:
(1) As a special fuel for internal combustion engines not operated upon highways of this state, or

(2) Gasoline consumed to operate tractors and gas engines or threshing machines for agricultural purposes, when such operation is not, in whole or in part, upon the highways of this state, or

(3) Gasoline used by any railway company, subject to regulation by the public service commission of West Virginia, for any purpose other than upon the highways of this state, or

(4) Gasoline consumed in the business of manufacturing or producing natural resources or in mining or drilling therefor, or in the transportation of natural resources solely by means of unlicensed vehicles or vehicles licensed under the motor vehicle laws of this state, either as a motor fuel or for any other purpose and which gasoline is not in any part used upon the highways of this state, or

(5) Gasoline consumed in motor boats or other water-craft operated upon the navigable waters of this state.

Such tax shall be refunded upon presentation to the commissioner of an affidavit accompanied by the original or top copy sales slips or invoices, or certified copies thereof, from the distributor or producer or retail dealer, showing such purchases, together with evidence of payment thereof, which affidavit shall set forth the total amount of such gasoline or special fuel purchased and consumed by such user, other than upon any highways of this state, and how used; and the commissioner upon the receipt of such affidavit and such paid sales slips or invoices shall cause to be refunded such tax paid on gasoline or special fuel purchased and consumed as aforesaid.

The right to receive any refund under the provisions of this section shall not be assignable and any assignment thereof shall be void and of no effect, nor shall any payment be made to any person other than the original person entitled thereto using gasoline or special fuel as hereinbefore in this section set forth. The commissioner shall cause a refund to be made under the authority of this section only when the application for such refund is filed with the com-
missioner, upon forms prescribed by the commissioner, within four months from the month of purchase or delivery of the gasoline or special fuel, except that any application for refund made under authority of subdivision (2) above shall be filed within twelve months from the month of purchase or delivery of such gasoline or special fuel. Any claim for a refund not timely filed shall not be construed to be or constitute a moral obligation of the state of West Virginia for payment.

§11-14-11a. Refund of tax used by volunteer fire departments, nonprofit ambulance services and emergency rescue services.

Upon certification by the county commission to the state tax commissioner that an organization in the county is a bona fide volunteer fire department, nonprofit ambulance service or emergency rescue service, the tax imposed by this article and paid by such organization shall be refunded.

Such tax shall be refunded upon presentation to the commissioner of an affidavit accompanied by the original or top copy sales slips or invoices, or certified copies thereof, from the distributor or producer or retail dealer, showing such purchases, together with evidence of payment thereof, which affidavit shall set forth the total amount of such gasoline or special fuel purchased and consumed by such user, and the commissioner upon the receipt of such affidavit and such paid sales slips or invoices shall cause to be refunded such tax paid on gasoline or special fuel purchased and consumed as aforesaid.

The right to receive any refund under the provisions of this section shall not be assignable and any assignment thereof shall be void and of no effect, nor shall any payment be made to any person other than the original person entitled thereto using gasoline or special fuel as hereinbefore in this section set forth.

The commissioner shall cause a refund to be made under the authority of this section only when the application for such refund is filed with the commissioner, upon forms prescribed by the commissioner, no later than the thirty-first day of August for purchases of fuel made during the preceding fiscal year ending the thirtieth day of June. Any claim for a refund not timely filed shall not be construed to be or constitute a moral obligation of the state of West Virginia for payment.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Originated in the House.
Takes effect ninety days from passage.

J. S. Wheeler
Clerk of the Senate

W. T. Battle, Jr.
President of the Senate

The within ______________________ this the ______________________ day of ______________________, 1976.

Aubrey A. Sharp
Governor
RESENTED TO THE
GOVERNOR
ate 3/5/76
me 1:25 p.m.