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OFFICE OF
THE CLERK OF STATE
WEST VIRGINIA

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976

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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

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ENROLLED

H. B. 763

(By MR. SMITH and MR. CHILDERS)

[Passed March 2, 1976; in effect ninety days from passage.]

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
- 2 person who shall buy in quantities of twenty-five gallons or
- 3 more, at any one time, tax-paid gasoline or special fuel, when
- 4 consumed for the following purposes:

5 (1) As a special fuel for internal combustion engines not
6 operated upon highways of this state, or

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

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

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

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

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

36 The right to receive any refund under the provisions of
37 this section shall not be assignable and any assignment
38 thereof shall be void and of no effect, nor shall any pay-
39 ment be made to any person other than the original person
40 entitled thereto using gasoline or special fuel as hereinbefore
41 in this section set forth. The commissioner shall cause
42 a refund to be made under the authority of this section only
43 when the application for such refund is filed with the com-

44 missioner, upon forms prescribed by the commissioner, within
 45 four months from the month of purchase or delivery of the
 46 gasoline or special fuel, except that any application for refund
 47 made under authority of subdivision (2) above shall be filed
 48 within twelve months from the month of purchase of delivery
 49 of such gasoline or special fuel. Any claim for a refund not
 50 timely filed shall not be construed to be or constitute a moral
 51 obligation of the state of West Virginia for payment.

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

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

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

17 The right to receive any refund under the provisions of this
 18 section shall not be assignable and any assignment thereof shall
 19 be void and of no effect, nor shall any payment be made to any
 20 person other than the original person entitled thereto using
 21 gasoline or special fuel as hereinbefore in this section set forth.
 22 The commissioner shall cause a refund to be made under the
 23 authority of this section only when the application for such
 24 refund is filed with the commissioner, upon forms prescribed
 25 by the commissioner, no later than the thirty-first day of
 26 August for purchases of fuel made during the preceding fiscal
 27 year ending the thirtieth day of June. Any claim for a refund
 28 not timely filed shall not be construed to be or constitute a
 29 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

Alvorne C. Christensen
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J. C. Dillough
Clerk of the Senate

U. A. Blomkamp
Clerk of the House of Delegates

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

Lewis T. McManis
Speaker House of Delegates

The within *approved* this the *9th*
day of *March*, 1976.

Arch A. Shroyer, Jr.
Governor

PRESENTED TO THE
GOVERNOR

ate 3/5/76

ne 1:25 p.m.