

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1978



ENROLLED

*Committee Substitute for*  
SENATE BILL NO. 149

(By Mr. *Beotherton, Mr. President*)



PASSED *March 11* 1978

In Effect *July 4, 1978* ~~Page~~

110. 171

# ENROLLED

## COMMITTEE SUBSTITUTE FOR

### Senate Bill No. 149

(By MR. BROTHERTON, MR. PRESIDENT)

[Passed March 11, 1978; in effect July 1, 1978.]

AN ACT to amend and reenact section ten, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to refund of gasoline and special fuel excise tax for gallons lost due to evaporation; and providing for computation of amount and petition for such refund.

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

That section ten, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, to read as follows:

#### **ARTICLE 14. GASOLINE AND SPECIAL FUEL EXCISE TAX.**

##### **§11-14-10. Refund of taxes illegally collected, etc.; refund for gallage exported or lost through casualty or evaporation; change of rate; petition for refund.**

1 The commissioner is hereby authorized to refund from  
2 the funds collected under the provisions of this article  
3 any tax, interest, additions to tax or penalties which  
4 have been erroneously or illegally collected from any  
5 person.

6 If any distributor or producer, retail dealer or im-  
7 porter, while he shall be the owner thereof, loses any  
8 gallons of gasoline or special fuel through fire, lightning,  
9 breakage, flood or other casualty, which gallons have  
10 been previously included in the tax by or for such per-  
11 son, he shall be refunded a sum equal to the amount  
12 of the tax paid upon such gallons so lost.

13 Any distributor or producer, retail dealer or importer  
14 or other person who purchases or receives gasoline or  
15 special fuel in this state upon which the tax imposed  
16 by this article has been paid and who subsequently ex-  
17 ports the same from this state (except in a supply tank),  
18 shall be entitled to a refund for the amount of tax  
19 paid.

20 Any dealer as defined in section two, article eleven-c,  
21 chapter forty-seven of the code, who purchases or receives  
22 gasoline or special fuel in this state upon which the tax  
23 imposed by this article has been paid, shall be entitled to  
24 an annual refund for gallons lost through evaporation.  
25 Such refund shall be computed at the rate of tax imposed  
26 per gallon under this article on all gallons of gasoline or  
27 special fuel actually lost due to evaporation, not exceeding  
28 one half of one percent of the adjusted total accountable  
29 gallons, computed as determined by the commissioner.

30 Every distributor or producer, retail dealer or im-  
31 porter shall be entitled to a refund from this state of the  
32 amount resulting from a change of rate decreasing the  
33 tax under the provisions of this article on gasoline and  
34 special fuel on hand and in inventory on the effective  
35 date of such rate change, which gasoline and special fuel  
36 shall have been included in any previous computation  
37 by which the tax imposed by this article has been paid  
38 by him.

39 No refund shall be made under this section unless  
40 a written petition therefor sets forth the circumstances  
41 upon which said refund is claimed. A claim for refund  
42 shall be subject to the provisions of section fourteen,  
43 article ten, chapter eleven of the code. The petition shall  
44 be in such form and with such supporting records as  
45 required by the commissioner and shall be made under  
46 the penalty of perjury. Petitions for refunds other than  
47 for evaporation loss shall be filed with the commissioner  
48 within three years from the end of the month in which  
49 the tax was erroneously or illegally paid or the gallons  
50 were exported or lost by casualty, or in which a change  
51 of rate took effect, as provided in this section. Petitions  
52 for refund for evaporation loss shall be filed within three

53 years from the end of the year in which such evapora-  
54 tion occurred but no such refund shall be allowed for  
55 any period prior to the year one thousand nine hundred  
56 seventy-eight.

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

James L. Davis  
Chairman Senate Committee

Lawrence L. Chustow Jr  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1978.

J. Wilson Jr.  
Clerk of the Senate

W. Blankenship  
Clerk of the House of Delegates

W. F. Bratcher Jr.  
President of the Senate

Donald L. Kopp  
Speaker House of Delegates

The within is approved this the 30  
day of March, 1978.

John D. I. [Signature]  
Governor

APPROVED AND SIGNED BY THE GOVERNOR

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OFFICE OF THE GOVERNOR

Date Mar. 30, 1978  
Time 3:20 p.m.

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SECRETARY OF STATE