WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1980

ENROLLED

HOUSE BILL No. 1251

(By Mr. Teets)

Passed March 8, 1980

In Effect July 1, 1980

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-24-80
Time 2:30 p.m.
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 West Virginia gasoline and special fuels excise tax act; increasing the refund period from four to six months for certain off-highway uses of gasoline and special fuels; and specifying effective date.

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 to read as follows:

ARTICLE 14. GASOLINE AND SPECIAL FUELS EXCISE TAX.

§11-14-11. Refund of tax because of certain nonhighway uses; statute of limitations and effective date.

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:

2 (1) As a special fuel for internal combustion engines not operated upon highways of this state; or

3 (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 motorboats or other watercraft 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 claim for such refund is filed with the commissioner, upon forms prescribed by the commissioner, within six 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. Such claim for refund shall
also be subject to the provisions of section fourteen, article
ten of this chapter.

Effective date.—The provisions of this section as hereby
amended shall apply to all gasoline and special fuels purchased
or delivered on or after the first day of July, one thousand
nine hundred eighty, and the provisions of this section in
effect prior to the said first day of July, shall apply to gasoline
and special fuels purchased or delivered prior to the first day
of July, one thousand nine hundred eighty.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

G. L. Christy, Jr.  
Chairman House Committee

Originated in the House.

Takes effect July 1, 1980.

Jude C. Wells  
Clerk of the Senate

C.A. Blankenship  
Clerk of the House of Delegates

W. P. Bellinger, Jr.  
President of the Senate

Clyde A. Maycock, Jr.  
Speaker House of Delegates

The within approved this the 24th day of March, 1980.

John Ramsey  
Governor