

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-24-80

Time 2:30 p.m.

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1980

— ● —

# ENROLLED

HOUSE BILL No. 1251

(By Mr. Teele)

— ● —

Passed March 8, 1980

In Effect July 1, 1980 Passage



No. 1251

ENROLLED

# H. B. 1251

(By MR. TEETS)

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[Passed March 8, 1980; in effect July 1, 1980.]

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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  
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  
6 not 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 this  
10 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 there-  
17 for, or in the transportation of natural resources solely by  
18 means of unlicensed vehicles or vehicles licensed under the  
19 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 motorboats or other watercraft  
23 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 com-  
32 missioner upon the receipt of such affidavit and such paid  
33 sales slips or invoices shall cause to be refunded such tax  
34 paid on gasoline or special fuel purchased and consumed as  
35 aforesaid.

36 The right to receive any refund under the provisions of  
37 this section shall not be assignable and any assignment thereof  
38 shall be void and of no effect, nor shall any payment be made  
39 to any person other than the original person entitled thereto  
40 using gasoline or special fuel as hereinbefore in this section  
41 set forth. The commissioner shall cause a refund to be made  
42 under the authority of this section only when the claim for  
43 such refund is filed with the commissioner, upon forms  
44 prescribed by the commissioner, within six months from the  
45 month of purchase or delivery of the gasoline or special  
46 fuel, except that any application for refund made under

47 authority of subdivision (2) above shall be filed within twelve  
48 months from the month of purchase or delivery of such gasoline  
49 or special fuel. Any claim for a refund not timely filed shall  
50 not be construed to be or constitute a moral obligation of the  
51 state of West Virginia for payment. Such claim for refund shall  
52 also be subject to the provisions of section fourteen, article  
53 ten of this chapter.

54 *Effective date.*—The provisions of this section as hereby  
55 amended shall apply to all gasoline and special fuels purchased  
56 or delivered on or after the first day of July, one thousand  
57 nine hundred eighty, and the provisions of this section in  
58 effect prior to the said first day of July, shall apply to gasoline  
59 and special fuels purchased or delivered prior to the first day  
60 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

*Lawrence C. Chestnut Jr.*  
Chairman House Committee

Originated in the House.

Takes effect July 1, 1980.

*Judd C. Mills*  
Clerk of the Senate

*C. A. Blankenship*  
Clerk of the House of Delegates

*W. T. Brotherton Jr.*  
President of the Senate

*Clayton M. Lee, Jr.*  
Speaker House of Delegates

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

*Paul R. Taylor*  
Governor

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OFFICE OF THE GOVERNOR

STATE

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