

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-24-80

Time 2:30 p.m.

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1980

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ENROLLED

HOUSE BILL No. 1251

(By Mr. Teets)

— ● —

Passed March 8, 1980

In Effect July 1, 1980 Passage



No. 1251

ENROLLED

H. B. 1251

(By MR. TEETS)

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

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

Clarence C. Chastain Jr.
Chairman House Committee

Originated in the House.

Takes effect July 1, 1980.

Fred 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.

John R. Ralston
Governor

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