

No: 2173

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986



ENROLLED

HOUSE BILL No. 2173

(By ~~Mr.~~ Del. Stemple + Del. Farley)



Passed March 8, 1986

In Effect July 1, 1986 ~~Passage~~

ENROLLED
H. B. 2173

(By DELEGATE STEMPLE and DELEGATE FARLEY)

[Passed March 8, 1986; in effect July 1, 1986.]

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 gasoline and special fuel excise tax; authorizing refund of tax because of certain nonhighway uses; and providing statute of limitations and 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 FUEL EXCISE TAX.

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

- 1 (a) The tax imposed by this article shall be refunded
2 to any person who shall buy in quantities of twenty-five
3 gallons or more, at any one time, tax-paid gasoline or
4 special fuel, when 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
8 engines or threshing machines for agricultural pur-
9 poses, when such operation is not, in whole or in part,
10 upon the highways of this state; or

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

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

23 (5) Gasoline consumed in motorboats or other water-
24 craft operated upon the navigable waters of this state;
25 or

26 (6) Gasoline or special fuel used to power a power
27 take-off unit on a motor vehicle. When a motor vehicle
28 with auxiliary equipment uses fuel and there is no
29 auxiliary motor for such equipment or separate tank for
30 such a motor, the person claiming the refund may
31 present to the tax commissioner a statement of his claim
32 and shall be allowed a refund for fuel used in operating
33 a power take-off unit on a cement mixer truck or
34 garbage truck equal to twenty-five percent of the tax
35 imposed by this article paid on all fuel used in such a
36 truck.

37 (b) Such tax shall be refunded upon presentation to
38 the commissioner of an affidavit accompanied by the
39 original or top copy sales slips or invoices, or certified
40 copies thereof, from the distributor or producer or retail
41 dealer, showing such purchases, together with evidence
42 of payment thereof, which affidavit shall set forth the
43 total amount of such gasoline or special fuel purchased
44 and consumed by such user, other than upon any
45 highways of this state, and how used; and the tax
46 commissioner upon the receipt of such affidavit and
47 such paid sales slips or invoices shall cause to be
48 refunded such tax paid on gasoline or special fuel
49 purchased and consumed as aforesaid.

50 (c) The right to receive any refund under the provi-

51 sions of this section shall not be assignable and any
52 assignment thereof shall be void and of no effect, nor
53 shall any payment be made to any person other than the
54 original person entitled thereto using gasoline or special
55 fuel as hereinbefore in this section set forth. The tax
56 commissioner shall cause a refund to be made under the
57 authority of this section only when the claim for such
58 refund is filed with the tax commissioner, upon forms
59 prescribed by the tax commissioner, within six months
60 from the month of purchase or delivery of the gasoline
61 or special fuel, except that any application for refund
62 made under authority of subdivision (2) above shall be
63 filed within twelve months from the month of purchase
64 or delivery of such gasoline or special fuel. Any claim
65 for a refund not timely filed shall not be construed to
66 be or constitute a moral obligation of the state of West
67 Virginia for payment. Such claim for refund shall also
68 be subject to the provisions of section fourteen, article
69 ten of this chapter.

70 (d) *Effective date.* — The provisions of this section as
71 hereby amended shall apply to all gasoline and special
72 fuels purchased or delivered on or after the first day of
73 July, one thousand nine hundred eighty-six, and the
74 provisions of this section in effect prior to the said first
75 day of July, shall apply to gasoline and special fuels
76 purchased or delivered prior to the first day of July, one
77 thousand nine hundred eighty-six.

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

Bruce O. Williams

Chairman Senate Committee

Floyd Fulb

Chairman House Committee

Originating in the House.

Takes effect July 1, 1986.

Jedd C. Miller

Clerk of the Senate

Donald G. Kopp

Clerk of the House of Delegates

Dan Tabor

President of the Senate

Joseph P. Allright

Speaker of the House of Delegates

The within *approved* this the *25th*
Frank
day of _____, 1986.

Hubert H. Brown, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/21/86

Time 5:09 p.m.

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OFFICE OF THE
SECRETARY OF STATE

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/26/86