WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1994

ENROLLED

SENATE BILL NO. 508

(By Senator Plymale)

PASSED March 11, 1994
In Effect 90 days from Passage
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Senate Bill No. 508

(BY SENATOR PLYMALE)

[Passed March 11, 1994; in effect ninety days from passage.]

AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article fourteen-b, relating generally to compliance with section four thousand eight of the "Intermodal Surface Transportation and Efficiency Act of 1991"; transferring authority to register motor carriers and issue trip permits to the division of motor vehicles; authorizing tax commissioner to enter into cooperative reciprocal international fuel tax agreements with one or more other states for collection of West Virginia motor fuel use taxes from motor carriers based in other states; specifying scope and effect of such agreements; specifying powers, duties and rights under such agreements; authorizing exchanges of information
for purposes of single point registration of motor carriers
and for administration and collection of motor fuel use
taxes under such agreements; providing for disposition of
motor fuel use taxes collected under such agreements;
creating international fuel tax agreement clearing fund
in the state treasury; providing for administration and
collection of motor fuel use taxes under an international
fuel tax agreement to be subject to the West Virginia tax
procedure and administration act; and providing for West
Virginia tax crimes and penalties act to apply to
international fuel tax agreements.

Be it enacted by the Legislature of West Virginia:

That chapter eleven of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, be amended
by adding thereto a new article, designated article fourteen-b,
to read as follows:

ARTICLE 14B. INTERSTATE FUEL TAX AGREEMENT.
§11-14B-1. Purpose.

1 This article is enacted to conform laws of this state
2 relating to registration of motor carriers and reporting
3 and payment of motor fuel use taxes with requirements
4 of the "Intermodal Surface Transportation and
6 specifically:
7 (1) Section 4005 of that act requires establishment of a
8 single state registration system for commercial motor
9 carriers. Under this system, a motor carrier is required
10 to register annually only with one state. Single state
11 registration is deemed to satisfy the registration
12 requirements of all other states.
13 (2) Section 4008 of that act mandates state participa-
14 tion in the international registration plan and adoption
15 of the international fuel tax agreement by providing that
16 after the thirtieth day of September, one thousand nine
17 hundred ninety-six:
18 (A) No state (other than a state participating in the
international registration plan) may establish, maintain or enforce any commercial motor vehicle registration law, regulation or agreement which limits the operation of any commercial motor vehicle within its borders which is not registered under the laws of the state if the vehicle is registered under the laws of any other state participating in the international registration plan;

(B) No state may establish, maintain or enforce any law or regulation which has fuel use tax reporting requirements (including tax reporting forms) which are not in conformity with the international fuel tax agreement;

and

(C) No state may establish, maintain or enforce any law or regulation which provides for the payment of a fuel use tax unless such law or regulation is in conformity with the international fuel tax agreement with respect to collection of such tax by a single base state and proportional sharing of such taxes charged among the states in which a commercial motor vehicle is operated.


1 (a) “Commercial motor vehicle”: (1) As used with respect to the international registration plan, has the meaning the term “apportionable vehicle” has under that plan; and (2) as used with respect to the international fuel tax agreement, has the meaning the term “qualified motor vehicle” has under that agreement.

(b) “Fuel use tax” means a tax imposed on or measured by the consumption of fuel in a motor vehicle.

(c) “International fuel tax agreement” means the international agreement for the collection and distribution of fuel use taxes paid by motor carriers, developed under the auspices of the national governors’ association.

(d) “International registration plan” means the interstate agreement for the apportionment of vehicle registration fees paid by motor carriers developed by the American association of motor vehicle administrators.
(e) "Motor fuel use taxes imposed by this state" means the aggregate amount of taxes, expressed in cents per gallon, imposed by this state, under articles fourteen-a and fifteen-a of this chapter, on gasoline or special fuel consumed in this state by a motor carrier.

(f) "State" means any of the forty-eight contiguous states and the District of Columbia, and any other jurisdiction which imposes a motor fuel use tax and is a member of the international fuel tax agreement.

§11-14B-3. Registration of motor carriers.

(a) To facilitate adoption of the single point registration system in this state, the powers, duties and responsibilities of the tax commissioner under section seven, article fourteen-a of this chapter, are transferred to the commissioner of the division of motor vehicles effective with registration year that begins the first day of July, one thousand nine hundred ninety-five: Provided, That no registration marker or trip permit shall be required under section seven, article fourteen of this chapter of a motor carrier based in another state which is a member of the international fuel tax agreement.

(b) Beginning with the registration year specified in subsection (a) of this section, the commissioner of motor vehicles shall furnish the tax commissioner with motor carrier registration information and information pertaining to the trip permit registration program for use by the tax commissioner in collecting motor fuel taxes.

(c) Also beginning with the registration year specified in subsection (a) of this section, the tax commissioner shall furnish the commissioner of motor vehicles with the taxpayer identity information for any motor carrier which fails to file required returns or report for, or to pay, the motor fuel use taxes imposed by this state. This information may give the commissioner of motor vehicles sufficient cause to revoke or refuse to renew the identification marker previously issued under section seven, article fourteen-a of this chapter.
(d) Information exchanged pursuant to this section shall be used solely for tax administration and motor carrier registration purposes and shall be treated as confidential information for all other purposes as provided in article ten of this chapter.


(a) The tax commissioner may enter into cooperative reciprocal international fuel tax agreements on behalf of the state of West Virginia with the appropriate authorities of another state or group of states for administration of the motor fuel use taxes imposed by this state.

(b) The tax commissioner may enter into any ancillary or related agreements on behalf of this state with the appropriate officials of one or more other states, or the federal government which the tax commissioner considers appropriate and necessary to fully implement any international fuel tax agreement entered into under subsection (a) of this section.

§11-14B-5. Scope of agreement.

An international fuel tax agreement may provide for:

(a) Determining the base state of motor carriers;

(b) Making and retaining of records by motor carriers;

(c) Auditing the books and records of motor carriers and auditing procedures;

(d) Exchanging information for purposes of motor fuel use tax administration and collection;

(e) Determining persons eligible for a motor carrier tax license or registration;

(f) Defining qualified motor vehicles;

(g) Determining if or when bonding is required;

(h) Specify reporting requirements and periods;

(i) Specifying uniform penalty and interest rates for
(j) Determining methods for collecting and forwarding of motor fuel use taxes and penalties to another jurisdiction; and

(k) Any other provision which the parties to the agreement believe will facilitate administration of the agreement and collection of motor fuel use taxes from interstate motor carriers.

§11-14B-6. Effect of international fuel tax agreement.

(a) The reporting requirements provided in the international fuel tax agreement shall take precedence over the reporting requirements provided in article fourteen-a of this chapter.

(b) Where the international fuel tax agreement and the provisions of article fourteen-a of this chapter and any amendments thereto subsequently made address the same matters, the provisions of the international fuel tax agreement shall take precedence.

(c) The amount of international fuel tax agreement taxes reported as due and owing by a motor carrier based in this state shall for purposes of articles nine and ten of this chapter be treated as taxes due and owing to the state of West Virginia.

(d) Interstate motor fuel users based in another state which is not a member of the international fuel tax agreement shall continue to be subject to the provisions of article fourteen-a of this chapter, and any subsequent amendments thereto.

§11-14B-7. Effective date of international fuel tax agreement or amendment.

The terms of an international fuel tax agreement, or an amendment thereto, shall not be effective until they are stated in writing and a properly executed copy is filed with the tax commissioner.
§11-14B-8. Copy of agreement to be maintained by tax commissioner.

A current copy of the international fuel tax agreement shall be maintained by the tax commissioner. A current copy of the international fuel tax agreement and any amendment thereto shall be published in the state register.


(a) The tax commissioner may, as required by the terms of any agreement executed under section four of this article, forward to the proper officers of any party to such agreement any information in the tax commissioner's possession relative to the manufacture, receipt, sale, use, transportation or shipment of motor fuels by any person.

(b) The tax commissioner may disclose to the proper officers of any party to an agreement executed under section four of this article the location of offices, motor vehicles and other real and personal property of users of motor fuels.

(c) Information which the tax commissioner is authorized to disclose under this article, which is confidential information under article ten of this chapter when in the possession of the tax commissioner, shall be treated as confidential information by the recipient thereof and that information may be used only for tax administration purposes.

(d) In the event of any inconsistency between the disclosure of information rules specified in this article and the confidentiality rules provided in article ten of this chapter, the language of this article shall control.

§11-14B-10. Audits.

(a) The international fuel tax agreement may provide for each state to audit the records of motor carriers based in that state to determine if the motor fuel taxes due each state are properly reported and paid. When a
base state performs a motor fuel use tax audit on an interstate motor carrier based in that state, it shall forward the findings of such audit to each state in which the interstate motor carrier has taxable use of motor fuels.

(b) No international fuel tax agreement entered into under this article may preclude the tax commissioner from auditing the records of any person covered by the provisions of this article.

§11-14B-11. Disposition of moneys; international fuel tax agreement clearing fund.

(a) International fuel tax agreement clearing fund. — All amounts collected under the international fuel tax agreement shall be deposited daily by the tax commissioner into the international fuel tax agreement clearing fund which is hereby created in the state treasury.

(b) Distributions. — The tax commissioner shall distribute funds in the international fuel tax agreement clearing fund as follows:

(1) Payments due and owing to member jurisdictions under the international fuel tax agreement shall be distributed as provided in the agreement.

(2) Refunds for over payment of motor fuel taxes by a West Virginia based interstate motor carrier shall be made from the fund.

(3) The tax commissioner shall periodically reconcile the international fuel tax agreement clearing fund and, after reconciliation, transfer to the state road fund all deposits in the clearing fund of motor fuel use taxes imposed by articles fourteen-a and fifteen-a of this chapter.

(c) Investment of funds. — Funds in the international fuel tax agreement clearing fund shall be invested in the same manner as funds in the state road fund and all earnings from these investments shall be deposited in the state treasury and credited to the state road fund:
Provided, That these investments shall not affect or interfere with distributions from the fund in accordance with the terms of the international fuel tax agreement.

§11-14B-12. Regulations.

The tax commissioner may adopt rules for the implementation, administration or enforcement of an international fuel tax agreement. These rules shall be promulgated in accordance with the provisions of article three, chapter twenty-nine-a of this code.


The legal remedies of any person served with an order or assessment under this article shall be those provided in this code to taxpayers in this state.


(a) All of the provisions of the “West Virginia Tax Procedure and Administration Act” set forth in article ten of this chapter, including amendments thereto, apply to motor fuel taxes collected under an international fuel tax agreement.

(b) In the event of any inconsistency between the provisions of article ten of this chapter and the terms of the international fuel tax agreement, the terms of the international fuel tax agreement shall control.


All of the provisions of the “West Virginia Tax Crimes and Penalties Act” set forth in article nine of this chapter, including amendments thereto, apply to the international fuel tax agreement taxes collectible under this article.


The division of motor vehicles shall reimburse the tax commissioner for costs incurred by the tax commissioner to implement agreements entered into under this section and for any additional expenses as may be incurred by
the tax commissioner to collect motor fuel use taxes
under these agreements, when these expenses are not
provided for in the tax division's annual budget
appropriation. For the fiscal year of the state that begins
on the first day of July, one thousand nine hundred
ninety-four, the reimbursement amount shall be six
hundred twenty thousand dollars. The amount of
reimbursement shall be renegotiated each fiscal year
thereafter.

§11-14B-17. Severability.

If any provision of this article or the application
thereof shall for any reason be adjudged by any court of
competent jurisdiction to be invalid, that judgment shall
not affect, impair or invalidate the remainder of this
article, but shall be confined in its operation to the
provision of this article directly involved in the contro-
versy in which such judgment was rendered and the
material facts therein, and the applicability of the
provision to other persons or circumstances shall not be
affected by the judgment.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bills correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 30th day of , 1994.

Governor