WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1995

ENROLLED

SENATE BILL NO. 222

(By Senator Casco, et al.)

PASSED March 11, 1995
In Effect 90 Days From Passage
AN ACT to amend and reenact sections five and eleven-a, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to exemptions from the excise tax on gasoline; specifically exempting units of county government buying gasoline or special fuel in bulk quantities; and providing for a refund of tax paid when the fuel is not purchased in bulk quantities.

Be it enacted by the Legislature of West Virginia:

That sections five and eleven-a, 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.
§11-14-5. Exemptions from tax.
There shall be exempted from the excise tax on gasoline or special fuel imposed by this article the following:

(1) All gallons of gasoline or special fuel exported from this state to any other state or nation.

(2) All gallons of gasoline or special fuel sold to and purchased by the United States or any agency thereof when delivered in bulk quantities of five hundred gallons or more.

(3) All gallons of gasoline or special fuel sold to and purchased by a county board of education when delivered in bulk quantities of five hundred gallons or more.

(4) All gallons of gasoline or special fuel sold pursuant to a government contract, in bulk quantities of five hundred gallons or more, for use in conjunction with any municipal, county, state or federal civil defense or emergency service program, or to any person on whom is imposed a requirement to maintain an inventory of gasoline or special fuel for the purpose of any such program: Provided, That fueling facilities used for these purposes are not capable of fueling motor vehicles and the person in charge of the program has in his or her possession a letter of authority from the tax commissioner certifying his or her right to such exemption.

(5) All gallons of gasoline or special fuel imported into this state in the fuel supply tank or tanks of a motor vehicle, other than in the fuel supply tank of a vehicle being hauled. This exemption does not relieve a person owning or operating as a motor carrier of any taxes imposed by article fourteen-a of this chapter.

(6) All gallons of gasoline and special fuel used and consumed in stationary off-highway turbine engines.

(7) All gallons of special fuel for heating any public or private dwelling, building or other premises.

(8) All gallons of special fuel for boilers.

(9) All gallons of gasoline or special fuel used as a dry
cleaning solvent or commercial or industrial solvent.

(10) All gallons of gasoline or special fuel used as lubricants, ingredients or components of any manufactured product or compound.

(11) All gallons of gasoline or special fuel sold to any municipality or agency thereof for use in vehicles or equipment owned and operated by such municipality or agency thereof and when purchased for delivery in bulk quantities of five hundred gallons or more.

(12) All gallons of gasoline or special fuel sold to any urban mass transportation authority, created pursuant to the provisions of article twenty-seven, chapter eight of this code, for use in an urban mass transportation system.

(13) All gallons of gasoline or special fuel sold for use as aircraft fuel.

(14) All gallons of gasoline or special fuel sold for use or used as a fuel for commercial watercraft.

(15) All gallons of special fuel sold for use or consumed in railroad diesel locomotives.

(16) All gallons of gasoline or special fuel sold to and purchased by a unit of county government when delivered in bulk quantities of five hundred gallons or more.

§11-14-11a. Refund of tax on gasoline or special fuel paid by any municipality, county, county board of education, volunteer fire department, nonprofit ambulance service and emergency rescue service.

(a) Upon application by a municipality, county or county board of education, or upon application and certification by the county commission to the state tax commissioner that an organization in the county is a bona fide volunteer fire department, nonprofit ambulance service or emergency rescue service, the tax imposed by this article and paid by any municipality,
unit of county government or any such organization shall be refunded.

(b) The 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 the purchases, together with evidence of payment thereof, which affidavit shall set forth the total amount of the gasoline or special fuel purchased and consumed by the user and the commissioner upon the receipt of the affidavit and the paid sales slips or invoices shall cause to be refunded the tax paid on gasoline or special fuel purchased and consumed as provided in this section.

(c) The right to receive any refund under the provisions of this section is not assignable and any assignment thereof is 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 set forth in this section. The commissioner shall cause a refund to be made under the authority of this section only when the application for the refund is filed with the commissioner, upon forms prescribed by the commissioner, no later than the thirty-first day of August for purchases of fuel made during the preceding fiscal year ending the thirtieth day of June. 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. The claim for refund is also subject to the provisions of section fourteen, article ten of this chapter: Provided, That the refund established in this section for counties and municipalities shall only apply to those purchases of gasoline and special fuels made after the thirtieth day of June, one thousand nine hundred ninety-five.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is 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 24th day of .................................., 1995.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/23/95
Time 3:45p.m.