

SB 0277

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SENATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

SENATE BILL NO. 277

(By Senator CRAIGO, ET AL)



PASSED MARCH 11, 1995

In Effect 90 Days From Passage

ENROLLED

Senate Bill No. 277

(BY SENATORS CRAIGO, DUGAN, BLATNIK, MILLER,
WIEDEBUSCH, HELMICK, DITTMAR, MANCHIN, WHITE,
SHARPE, BOWMAN, ROSS, ANDERSON, SCOTT, DEEM,
SCHOONOVER, YODER, WHITLOW, BOLEY AND PLYMALE)

[Passed March 11, 1995; in effect ninety 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.

1 There shall be exempted from the excise tax on gaso-
2 line or special fuel imposed by this article the following:

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

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

9 (3) All gallons of gasoline or special fuel sold to and
10 purchased by a county board of education when deliv-
11 ered in bulk quantities of five hundred gallons or more.

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

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

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

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

34 (8) All gallons of special fuel for boilers.

35 (9) All gallons of gasoline or special fuel used as a dry

36 cleaning solvent or commercial or industrial solvent.

37 (10) All gallons of gasoline or special fuel used as
38 lubricants, ingredients or components of any manufac-
39 tured product or compound.

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

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

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

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

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

56 (16) All gallons of gasoline or special fuel sold to and
57 purchased by a unit of county government when deliv-
58 ered 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 ser-
vice.**

1 (a) Upon application by a municipality, county or
2 county board of education, or upon application and
3 certification by the county commission to the state tax
4 commissioner that an organization in the county is a
5 bona fide volunteer fire department, nonprofit ambu-
6 lance service or emergency rescue service, the tax
7 imposed by this article and paid by any municipality,

8 unit of county government or any such organization shall
9 be refunded.

10 (b) The tax shall be refunded upon presentation to the
11 commissioner of an affidavit accompanied by the origi-
12 nal or top copy sales slips or invoices, or certified copies
13 thereof, from the distributor or producer or retail dealer,
14 showing the purchases, together with evidence of pay-
15 ment thereof, which affidavit shall set forth the total
16 amount of the gasoline or special fuel purchased and
17 consumed by the user and the commissioner upon the
18 receipt of the affidavit and the paid sales slips or in-
19 voices shall cause to be refunded the tax paid on gasoline
20 or special fuel purchased and consumed as provided in
21 this section.

22 (c) The right to receive any refund under the provisions
23 of this section is not assignable and any assignment
24 thereof is void and of no effect, nor shall any payment be
25 made to any person other than the original person
26 entitled thereto using gasoline or special fuel as set forth
27 in this section. The commissioner shall cause a refund to
28 be made under the authority of this section only when
29 the application for the refund is filed with the commis-
30 sioner, upon forms prescribed by the commissioner, no
31 later than the thirty-first day of August for purchases of
32 fuel made during the preceding fiscal year ending the
33 thirtieth day of June. Any claim for a refund not timely
34 filed shall not be construed to be or constitute a moral
35 obligation of the state of West Virginia for payment. The
36 claim for refund is also subject to the provisions of
37 section fourteen, article ten of this chapter: *Provided,*
38 That the refund established in this section for counties
39 and municipalities shall only apply to those purchases of
40 gasoline and special fuels made after the thirtieth day of
41 June, one thousand nine hundred ninety-five.

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

Rory Schanover
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Dorell E. Adams
.....
Clerk of the Senate

Dorell E. Adams
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

John C. Backus
.....
Speaker House of Delegates

The within *is approved* this the *24th*

day of *March*, 1995.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/23/95

Time 3:45pm