WEST VIRGINIA LEGISLATURE
Regular Session, 2006

ENROLLED
Committee Substitute for
SENATE BILL NO. 490

(By Senator Helmick, et al)

PASSED March 9, 2006

In Effect 90 days from Passage
AN ACT to amend and reenact §11-14C-9 of the Code of West Virginia, 1931, as amended, relating to motor fuel excise tax; and exempting county aging programs from tax.

Be it enacted by the Legislature of West Virginia:

That §11-14C-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 14C. MOTOR FUEL EXCISE TAX.

§11-14C-9. Exemptions from tax; claiming refunds of tax.

1   (a) Per se exemptions from flat rate component of tax. –
2   Sales of motor fuel to the following, or as otherwise stated
3   in this subsection, are exempt per se from the flat rate of
4   the tax levied by section five of this article and the flat
5   rate may not be paid at the rack:
(1) All motor fuel exported from this state to any other state or nation: *Provided*, That the supplier collects and remits to the destination state or nation the appropriate amount of tax due on the motor fuel transported to that state or nation: *Provided, however*, That this exemption does not apply to any motor fuel which is transported and delivered outside this state in the motor fuel supply tank of a highway vehicle;

(2) Sales of aviation fuel;

(3) Sales of dyed special fuel; and

(4) Sales of propane.

(b) *Per se exemptions from variable component of tax.*

- Sales of motor fuel to the following are exempt per se from the variable component of the tax levied by section five of this article and the variable component may not be paid at the rack:

All motor fuel exported from this state to any other state or nation: *Provided*, That the supplier collects and remits to the destination state or nation the appropriate amount of tax due on the motor fuel transported to that state or nation: *Provided, however*, That this exemption does not apply to any motor fuel which is transported and delivered outside this state in the motor fuel supply tank of a highway vehicle.

(c) *Refundable exemptions from flat rate component of tax.*

- Any person having a right or claim to any of the following exemptions from the flat rate component of the tax levied by section five of this article shall first pay the tax levied by this article and then apply to the Tax Commissioner for a refund:

(1) The United States or any agency thereof: *Provided*, That if the United States government, or any agency or instrumentality thereof, does not pay the seller the tax imposed by section five of this article on any purchase of
motor fuel, the person selling tax previously paid motor
fuel to the United States government, or its agencies or
instrumentalities, may then claim a refund of the flat rate
component of tax imposed by said section on those sales;

(2) Any county government or unit or agency thereof,
including a county aging program as defined by the Older
Americans Act and designated by the Bureau of Senior
Services;

(3) Any municipal government or any agency thereof;

(4) Any county boards of education;

(5) Any urban mass transportation authority created
pursuant to the provisions of article twenty-seven, chapter
eight of this code;

(6) Any municipal, county, state or federal civil defense
or emergency service program pursuant to a government
contract for use in conjunction therewith, or to any person
on whom is imposed a requirement to maintain an inven-
tory of motor fuel for the purpose of the program: Pro-
vided, That motor 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 the exemption: Provided, however, That in
order for this exemption to apply, motor fuel sold under
this subdivision and subdivisions (1) through (5), inclusive,
of this subsection shall be used in vehicles or equipment
owned and operated by the respective government entity
or government agency or authority;

(7) All invoiced gallons of motor fuel purchased by a
licensed exporter and subsequently exported from this
state to any other state or nation: Provided, That the
exporter has paid the applicable motor fuel tax to the
destination state or nation prior to claiming this refund or
the exporter has reported to the destination state or nation
that the motor fuel was sold in a transaction not subject to
tax in that state or nation: Provided, however, That a refund may not be granted on any motor fuel which is transported and delivered outside this state in the motor fuel supply tank of a highway vehicle;

(8) All gallons of motor fuel used and consumed in stationary off-highway turbine engines;

(9) All gallons of special fuel used for heating any public or private dwelling, building or other premises;

(10) All gallons of special fuel used for boilers;

(11) All gallons of motor fuel used as a dry cleaning solvent or commercial or industrial solvent;

(12) All gallons of motor fuel used as lubricants, ingredients or components of any manufactured product or compound;

(13) All gallons of motor fuel sold for use or used as a motor fuel for commercial watercraft;

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

(15) All gallons of motor fuel purchased in quantities of twenty-five gallons or more for use as a motor fuel for internal combustion engines not operated upon highways of this state;

(16) All gallons of motor fuel purchased in quantities of twenty-five gallons or more and used to power a power take-off unit on a motor vehicle. When a motor vehicle with auxiliary equipment uses motor fuel and there is no auxiliary motor for the equipment or separate tank for a motor, the person claiming the refund may present to the Tax Commissioner a statement of his or her claim and is allowed a refund for motor fuel used in operating a power take-off unit on a cement mixer truck or garbage truck equal to twenty-five percent of the tax levied by this article paid on all motor fuel used in such a truck;
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108  (17) Motor fuel used by any person regularly operating
109  any vehicle under a certificate of public convenience and
110  necessity or under a contract carrier permit for transporta-
111  tion of persons when purchased in an amount of twenty-
112  five gallons or more: Provided, That the amount refunded
113  is equal to six cents per gallon: Provided, however, That
114  the gallons of motor fuel have been consumed in the
115  operation of urban and suburban bus lines and the major-
116  ity of passengers use the bus for traveling a distance not
117  exceeding forty miles, measured one way, on the same day
118  between their places of abode and their places of work,    
119  shopping areas or schools; and

120  (18) All gallons of motor fuel that are not otherwise
121  exempt under subdivisions (1) through (6), inclusive, of
122  this subsection and that are purchased and used by any
123  bona fide volunteer fire department, nonprofit ambulance
124  service or emergency rescue service that has been certified
125  by the municipality or county wherein the bona fide
126  volunteer fire department, nonprofit ambulance service or
127  emergency rescue service is located.

128  (d) Refundable exemptions from variable rate component
129  of tax. — Any of the following persons may claim an
130  exemption from the variable rate component of the tax
131  levied by section five of this article on the purchase and
132  use of motor fuel by first paying the tax levied by this
133  article and then applying to the Tax Commissioner for a
134  refund.

135  (1) The United States or any agency thereof: Provided,
136  That if the United States government, or any agency or
137  instrumentality thereof, does not pay the seller the tax
138  imposed by section five of this article on any purchase of
139  motor fuel, the person selling tax previously paid motor
140  fuel to the United States government, or its agencies or
141  instrumentalities, may then claim a refund of the variable
142  rate of tax imposed by said section on those sales.

143  (2) This state and its institutions;

144 (3) Any county government or unit or agency thereof,
145 including a county aging program as defined by the Older
146 Americans Act and designated by the Bureau of Senior
147 Services;

148 (4) Any municipal government or any agency thereof;

149 (5) Any county boards of education;

150 (6) Any urban mass transportation authority created
151 pursuant to the provisions of article twenty-seven, chapter
152 eight of this code;

153 (7) Any municipal, county, state or federal civil defense
154 or emergency service program pursuant to a government
155 contract for use in conjunction therewith, or to any person
156 on whom is imposed a requirement to maintain an inven-
157 tory of motor fuel for the purpose of the program: Pro-
158 vided, That fueling facilities used for these purposes are
159 not capable of fueling motor vehicles and the person in
160 charge of the program has in his or her possession a letter
161 of authority from the Tax Commissioner certifying his or
162 her right to the exemption;

163 (8) Any bona fide volunteer fire department, nonprofit
164 ambulance service or emergency rescue service that has
165 been certified by the municipality or county wherein the
166 bona fide volunteer fire department, nonprofit ambulance
167 service or emergency rescue service is located; or

168 (9) All invoiced gallons of motor fuel purchased by a
169 licensed exporter and subsequently exported from this
170 state to any other state or nation: Provided, That the
171 exporter has paid the applicable motor fuel tax to the
172 destination state or nation prior to claiming this refund:
173 Provided, however, That a refund may not be granted on
174 any motor fuel which is transported and delivered outside
175 this state in the motor fuel supply tank of a highway
176 vehicle.
(e) The provision in subdivision (9), subsection (a), section nine, article fifteen of this chapter that exempts as a sale for resale those sales of gasoline and special fuel by a distributor or importer to another distributor does not apply to sales of motor fuel under this article.
The 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 5th Day of April, 2006.

Governor