

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2581

By Delegate Longanacre

[Introduced January 16, 2023; Referred to the
Committee on Technology and Infrastructure then
Finance]

1 A BILL to amend and reenact §11-15-18b of the Code of West Virginia, 1931, as amended, relating
 2 to reducing the flat tax on motor fuel by 50%.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-18b. Tax on motor fuel.

1 (a) *General.* — All sales of motor fuel and alternative fuel subject to the flat rate of the tax
 2 imposed by section five, article fourteen-c of this chapter, are subject to the tax imposed by this
 3 article and comprises the variable component of the tax imposed by section five, article fourteen-c
 4 of this chapter and is collected and remitted at the time the tax imposed by said section is remitted.
 5 Sales of motor fuel and alternative fuel upon which the tax imposed by this article has been paid is
 6 not again taxed under the provisions of this article. This section means that all gallons of motor fuel
 7 and equivalent gallons of alternative fuel sold and delivered or delivered in this state are taxed one
 8 time.

9 (b) *Measure of tax.* — The measure of tax imposed by this article is as follows:

10 (1) On sales of motor fuel, the average wholesale price as defined and determined in
 11 section five, article fourteen-c of this chapter. For purposes of maintaining revenue for highways,
 12 and recognizing that the tax imposed by this article is generally imposed on gross proceeds from
 13 sales to ultimate consumers, whereas the tax on motor fuel herein is imposed on the average
 14 wholesale price of the motor fuel; in no case, for the purposes of taxation under this article, may
 15 the average wholesale price be determined to be less than 97 cents per gallon of motor fuel for all
 16 gallons of motor fuel sold during the reporting period, notwithstanding any provision of this article
 17 to the contrary. On and after January 1, 2010, for the purpose of taxation under this article, in no
 18 case may the average wholesale price be determined to be less than \$2.34 per gallon of motor fuel
 19 for all gallons of motor fuel sold during the reporting period notwithstanding any provision of this
 20 article to the contrary: *Provided*, That on and after July 1, 2017, in no case may the average
 21 wholesale price be determined to be less than \$3.04 per gallon of motor fuel for all gallons of motor

22 fuel sold during the reporting period notwithstanding any provision of this article to the contrary and
23 on and after July 1, 2017, the tax per gallon may not be less than 15.2 cents per gallon of motor
24 fuel. Any limitation on the average wholesale price of motor fuel contained in this subsection shall
25 not be applicable to alternative fuel: Provided, however, That on and after July 1, 2023, in no case
26 may the average wholesale price be determined to be less than \$3.04 per gallon of motor fuel for
27 all gallons of motor fuel sold during the reporting period notwithstanding any provision of this
28 article to the contrary and on and after July 1, 2023, the tax per gallon may not be less than 7.6
29 cents per gallon of motor fuel. Any limitation on the average wholesale price of motor fuel
30 contained in this subsection shall not be applicable to alternative fuel.

31 (2) On sales of alternative fuel, the average wholesale price as defined and determined in
32 section five, article fourteen-c of this chapter.

33 (c) *Definitions.* — For purposes of this article, the terms "gasoline" and "special fuel" and
34 "alternative fuel" are defined as provided in section two, article fourteen-c of this chapter. Other
35 terms used in this section have the same meaning as when used in a similar context in said article.

36 (d) *Tax return and tax due.* —

37 (1) The tax imposed by this article on sales of motor fuel shall be paid by each taxpayer on
38 or before the last day of the calendar month by check, bank draft, certified check, or money order
39 payable to the Tax Commissioner for the amount of tax due for the preceding month
40 notwithstanding any provision of this article to the contrary. The commissioner may require all or
41 certain taxpayers to file tax returns and payments electronically. The return required by the
42 commissioner shall accompany the payment of tax. If no tax is due, the return required by the
43 commissioner shall be completed and filed on or before the last day of the month.

44 (2) The tax due under this article comprising the variable component of the tax due under
45 article fourteen-c of this chapter on alternative fuel, is due and shall be collected and remitted at
46 the time the tax imposed by section five, article fourteen-c of this chapter is due, collected and
47 remitted.

48 (e) *Compliance*. — To facilitate ease of administration and compliance by taxpayers, the
49 Tax Commissioner shall require persons liable for the tax imposed by this article on sales of motor
50 fuel to file a combined return and make a combined payment of the tax due under this article on
51 sales of motor fuel and the tax due under article fourteen-c of this chapter on motor fuel. In order to
52 encourage use of a combined return each month and the making of a single payment each month
53 for both taxes, the due date of the return and tax due under article fourteen-c of this chapter is the
54 last day of each month notwithstanding any provision in said article to the contrary. The Tax
55 Commissioner may prescribe reporting and payment requirements for tax due under this article on
56 alternative fuel which accommodate the due dates and requirements prescribed in this article and
57 article fourteen-c of this chapter, either under a separate return and payment or a combined return
58 and payment, within the discretion of the Tax Commissioner.

59 (f) *Dedication of tax*. — All tax collected under the provisions of this section, after deducting
60 the amount of refunds lawfully paid, shall be deposited in the road fund in the State Treasurer's
61 office and used only for the purpose of construction, reconstruction, maintenance and repair of
62 highways and payment of principal and interest on state bonds issued for highway purposes.
63 Notwithstanding any provision to the contrary, tax collected on the sale of aviation fuel after
64 deducting the amount of refunds lawfully paid shall be deposited in the State Treasurer's office and
65 transferred to the state Aeronautical Commission to be used for the purpose of matching federal
66 funds available for the reconstruction, maintenance and repair of public airports and airport
67 runways.

68 (g) *Construction*. — This section does not tax a sale of motor fuel which this state is
69 prohibited from taxing under the Constitution of this state or the Constitution or laws of the United
70 States.

71 (h) *Effective date*. — The provisions of this section take effect on January 1, 2004. The
72 provisions of this section enacted during the 2007 legislative session take effect on January 1,
73 2008. The provisions of this section enacted during the 2013 regular legislative session take effect

74 on January 1, 2014. The amendments of this section enacted during the first extraordinary session
75 of 2017 take effect on July 1, 2017. The amendments to this section enacted during the 2023
76 regular session take effect on July 1, 2023.

NOTE: The purpose of this bill is to reduce the West Virginia tax on gasoline by 50%.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.