

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 505

BY SENATOR HALL

[Introduced February 4, 2016;

Referred to the Committee on Finance.]

1 A BILL to amend and reenact §11-14C-9 of the Code of West Virginia, 1931, as amended, relating
2 to exempting from motor fuel excise tax certain uses of field gas; and defining “field gas”.

Be it enacted by the Legislature of West Virginia:

1 That §11-14C-9 of the Code of West Virginia, 1931, as amended, be amended and
2 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.* — Sales of motor fuel to the
2 following, or as otherwise stated in this subsection, are exempt per se from the flat rate of the tax
3 levied by section five of this article and the flat rate may not be paid at the rack:

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

9 (2) Sales of aviation fuel;

10 (3) Sales of dyed special fuel; ~~and~~

11 (4) Sales of propane unless sold for use in a motor vehicle; and

12 (5) Field gas used as fuel to run drilling equipment, compressor engines and other
13 stationary internal combustion engines not used on the roads of this state. For purposes of this
14 exemption, “field gas” means “natural gas” or any derivative thereof, extracted from a production
15 well, storage well, gathering system, pipeline, main or transmission line that is used as fuel to
16 power field equipment. The term “field gas” does not include compressed natural gas, liquefied
17 natural gas, liquefied petroleum gas, gasoline, diesel, kerosene or other fuels used to power motor
18 vehicles.

19 (b) *Per se exemptions from variable component of tax.* — Sales of motor fuel to the

20 following are exempt per se from the variable component of the tax levied by section five of this
21 article and the variable component may not be paid at the rack:

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

27 (2) Field gas used as fuel to run drilling equipment, compressor engines and other
28 stationary internal combustion engines not used on the roads of this state. For purposes of this
29 exemption, "field gas" means "natural gas" or any derivative thereof, extracted from a production
30 well, storage well, gathering system, pipeline, main or transmission line that is used as fuel to
31 power field equipment. The term "field gas" does not include compressed natural gas, liquefied
32 natural gas, liquefied petroleum gas, gasoline, diesel, kerosene or other fuels used to power motor
33 vehicles.

34 (c) *Refundable exemptions from flat rate component of tax.* — A person having a right or
35 claim to any of the following exemptions from the flat rate component of the tax levied by section
36 five of this article shall first pay the tax levied by this article and then apply to the Tax
37 Commissioner for a refund:

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

43 (2) A county government or unit or agency thereof;

44 (3) A municipal government or any agency thereof;

45 (4) A county board of education;

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

48 (6) A municipal, county, state or federal civil defense or emergency service program
49 pursuant to a government contract for use in conjunction therewith or to a person who is required
50 to maintain an inventory of motor fuel for the purpose of the program: *Provided*, That motor fueling
51 facilities used for these purposes are not capable of fueling motor vehicles and the person in
52 charge of the program has in his or her possession a letter of authority from the Tax Commissioner
53 certifying his or her right to the exemption. In order for this exemption to apply, motor fuel sold
54 under this subdivision and subdivisions (1) through (5), inclusive, of this subsection shall be used
55 in vehicles or equipment owned and operated by the respective government entity or government
56 agency or authority;

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

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

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

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

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

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

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

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

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

75 (16) All gallons of motor fuel purchased in quantities of twenty-five gallons or more and
76 used to power a power take-off unit on a motor vehicle. When a motor vehicle with auxiliary
77 equipment uses motor fuel and there is no auxiliary motor for the equipment or separate tank for
78 a motor, the person claiming the refund may present to the Tax Commissioner a statement of his
79 or her claim and is allowed a refund for motor fuel used in operating a power take-off unit on a
80 cement mixer truck or garbage truck equal to twenty-five percent of the tax levied by this article
81 paid on all motor fuel used in such a truck;

82 (17) Motor fuel used by a person regularly operating a vehicle under a certificate of public
83 convenience and necessity or under a contract carrier permit for transportation of persons when
84 purchased in an amount of twenty-five gallons or more: *Provided*, That the amount refunded is
85 equal to six cents per gallon: *Provided, however*, That the gallons of motor fuel have been
86 consumed in the operation of urban and suburban bus lines and the majority of passengers use
87 the bus for traveling a distance not exceeding forty miles, measured one way, on the same day
88 between their places of abode and their places of work, shopping areas or schools; and

89 (18) All gallons of motor fuel that are not otherwise exempt under subdivisions (1) through
90 (6), inclusive, of this subsection and that are purchased and used by any bona fide volunteer fire
91 department, nonprofit ambulance service or emergency rescue service that has been certified by
92 the municipality or county wherein the bona fide volunteer fire department, nonprofit ambulance
93 service or emergency rescue service is located.

94 (d) *Refundable exemptions from variable rate component of tax.* — Any of the following
95 persons may claim an exemption from the variable rate component of the tax levied by section
96 five of this article on the purchase and use of motor fuel by first paying the tax levied by this article
97 and then applying to the Tax Commissioner for a refund.

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

103 (2) This state and its institutions;

104 (3) A county government or unit or agency thereof;

105 (4) A municipal government or agency thereof;

106 (5) A county board of education;

107 (6) An urban mass transportation authority created pursuant to the provisions of article
108 twenty-seven, chapter eight of this code;

109 (7) A municipal, county, state or federal civil defense or emergency service program
110 pursuant to a government contract for use in conjunction therewith, or to a person who is required
111 to maintain an inventory of motor fuel for the purpose of the program: *Provided*, That fueling
112 facilities used for these purposes are not capable of fueling motor vehicles and the person in
113 charge of the program has in his or her possession a letter of authority from the Tax Commissioner
114 certifying his or her right to the exemption;

115 (8) A bona fide volunteer fire department, nonprofit ambulance service or emergency
116 rescue service that has been certified by the municipality or county where the bona fide volunteer
117 fire department, nonprofit ambulance service or emergency rescue service is located; or

118 (9) All invoiced gallons of motor fuel purchased by a licensed exporter and subsequently
119 exported from this state to any other state or nation: *Provided*, That the exporter has paid the
120 applicable motor fuel tax to the destination state or nation prior to claiming this refund. A refund
121 may not be granted on motor fuel which is transported and delivered outside this state in the motor
122 fuel supply tank of a highway vehicle.

123 (e) The provision in subdivision (9), subsection (a), section nine, article fifteen of this

124 chapter that exempts as a sale for resale those sales of gasoline and special fuel by a distributor
125 or importer to another distributor does not apply to sales of motor fuel under this article.

NOTE: The purpose of this bill is to exempt from the motor fuel excise taxes certain uses of field gas as that term is defined in the bill.

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