

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

Introduced

### House Bill 2703

FISCAL  
NOTE

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WESTFALL, QUEEN, AZINGER, HIGGINBOTHAM, BARRETT

AND BATES

[Introduced January 28, 2019; Referred

to the Committee on Finance.]

1 A BILL to amend and reenact §11-14-10 of the Code of West Virginia, 1931, as amended, relating  
 2 to refunds of excise taxes collected from dealers of petroleum products under certain  
 3 circumstances; and eliminating a cap on the amount of tax that may be refunded for fuels  
 4 lost through evaporation.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 14. GASOLINE AND SPECIAL FUEL EXCISE TAX.**

**§11-14-10. Refund of taxes illegally collected, etc.; refund for gallonage exported or lost through casualty or evaporation; change of rate; petition for refund.**

1 The commissioner is hereby authorized to refund from the funds collected under the  
 2 provisions of this article any tax, interest, additions to tax or penalties which have been  
 3 erroneously or illegally collected from any person.

4 If any distributor or producer, retail dealer or importer, while he or she shall be the owner  
 5 thereof, loses any gallons of gasoline or special fuel through fire, lightning, breakage, flood or  
 6 other casualty, which gallons have been previously included in the tax by or for such person, he  
 7 or she shall be refunded a sum equal to the amount of the tax paid upon such gallons so lost.

8 Any distributor or producer, retail dealer or importer or other person who purchases or  
 9 receives gasoline or special fuel in this state upon which the tax imposed by this article has been  
 10 paid, and who subsequently exports the same from this state (except in a supply tank), shall be  
 11 entitled to a refund for the amount of tax paid.

12 Any dealer as defined in §47-11C-2 of this code, who purchases or receives gasoline or  
 13 special fuel in this state upon which the tax imposed by this article has been paid, shall be entitled  
 14 to an annual refund for gallons lost through evaporation. Such refund shall be computed at the  
 15 rate of tax imposed per gallon under this article on all gallons of gasoline or special fuel actually  
 16 lost due to evaporation. ~~not exceeding one half of one percent of the adjusted total accountable~~  
 17 ~~gallons, computed as determined by the commissioner~~

18 Every distributor or producer, retail dealer or importer shall be entitled to a refund from

19 this state of the amount resulting from a change of rate decreasing the tax under the provisions  
20 of this article on gasoline and special fuel on hand and in inventory on the effective date of such  
21 rate change, which gasoline and special fuel shall have been included in any previous  
22 computation by which the tax imposed by this article has been paid by him or her.

23 No refund shall be made under this section unless a written petition therefor sets forth the  
24 circumstances upon which said refund is claimed. A claim for refund shall be subject to the  
25 provisions of §11-10-14 of the code. The petition shall be in such form and with such supporting  
26 records as required by the commissioner and shall be made under the penalty of perjury. Petitions  
27 for refunds other than for evaporation loss shall be filed with the commissioner within three years  
28 from the end of the month in which the tax was erroneously or illegally paid or the gallons were  
29 exported or lost by casualty, or in which a change of rate took effect, as provided in this section.  
30 Petitions for refund for evaporation loss shall be filed within three years from the end of the year  
31 in which such evaporation occurred, but no such refund shall be allowed for any period prior to ~~the~~  
32 ~~year~~ 1978.

NOTE: The purpose of this bill is to remove the cap on the amount of tax that may be refunded to a dealer of petroleum products for gallons lost due to evaporation.

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