

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2691

**FISCAL
NOTE**

BY DELEGATE HIGGINBOTHAM

[Introduced February 23, 2021; Referred to the
Committee on Political Subdivisions then Finance]

1 A BILL to amend and reenact §11-14-5 of the Code of West Virginia, 1931, as amended, relating
 2 to permitting a municipality or county that borders other states and retailers of gasoline
 3 situate in counties that border other states to purchase an exemption form the tax on
 4 gasoline, equal to the exemption claimed by the municipality or county in which the retailer
 5 is located.

Be it enacted by the Legislature of West Virginia:

ARTICLE 14. GASOLINE AND SPECIAL FUEL EXCISE TAX.

.§11-14-5. Exemptions from tax.

1 (a) There shall be exempted from the excise tax on gasoline or special fuel imposed by
 2 this article the following:

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

5 (2) All gallons of gasoline or special fuel sold to and purchased by the United States or
 6 any agency of the United States when delivered in bulk quantities of 500 gallons or more;

7 (3) All gallons of gasoline or special fuel sold to and purchased by a county board of
 8 education when delivered in bulk quantities of 500 gallons or more;

9 (4) All gallons of gasoline or special fuel sold pursuant to a government contract, in bulk
 10 quantities of 500 gallons or more, for use in conjunction with any municipal, county, state or
 11 federal civil defense or emergency service program, or to any person on whom is imposed a
 12 requirement to maintain an inventory of gasoline or special fuel for the purpose of the program:
 13 *Provided,* That fueling facilities used for these purposes are not capable of fueling motor vehicles
 14 and the person in charge of the program has in his or her possession a letter of authority from the
 15 Tax Commissioner certifying his or her right to the exemption;

16 (5) All gallons of gasoline or special fuel imported into this state in the fuel supply tank or
 17 tanks of a motor vehicle, other than in the fuel supply tank of a vehicle being hauled. This

18 exemption does not relieve a person owning or operating as a motor carrier of any taxes imposed
19 by §11-14A-1 *et seq.* of this code;

20 (6) All gallons of gasoline and special fuel used and consumed in stationary off-highway
21 turbine engines;

22 (7) All gallons of special fuel for heating any public or private dwelling, building or other
23 premises;

24 (8) All gallons of special fuel for boilers;

25 (9) All gallons of gasoline or special fuel used as a dry cleaning solvent or commercial or
26 industrial solvent;

27 (10) All gallons of gasoline or special fuel used as lubricants, ingredients or components
28 of any manufactured product or compound;

29 (11) All gallons of gasoline or special fuel sold to any municipality or agency of a
30 municipality for use in vehicles or equipment owned and operated by the municipality or agency
31 of a municipality and when purchased for delivery in bulk quantities of 500 gallons or more;

32 (12) All gallons of gasoline or special fuel sold to any urban mass transportation authority,
33 created pursuant to ~~the provisions of~~ §8-27-1 *et seq.* of this code, for use in an urban mass
34 transportation system;

35 (13) All gallons of gasoline or special fuel sold for use as aircraft fuel;

36 (14) All gallons of gasoline or special fuel sold for use or used as a fuel for commercial
37 watercraft;

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

39 (16) All gallons of gasoline or special fuel sold to and purchased by a unit of county
40 government when delivered in bulk quantities of five hundred gallons or more;

41 (17) All gallons of special dyed diesel fuel; and

42 (18) All gallons of propane gas for off road use.

43 (b) Notwithstanding any other provision of law to the contrary:

44 (1) Retailers, as defined in this chapter, who are situated in a municipality or county of this
45 state that borders any other state may claim an exemption in this section by purchasing the
46 exemption in an amount equal to the exemption allowed to the municipality or county in which the
47 retailer is located.

48 (2) A municipality or county of this state that borders any other state may claim an
49 exemption in this section by purchasing the exemption in an amount equal to the exemption
50 allowed to the municipality or county, if the governing body of the municipality or county
51 commission approves.

52 (3) The Tax Commissioner shall propose rules for legislative approval in accordance with
53 §29A-3-1 et seq. of this code to carry out the purpose of this subsection.

NOTE: The purpose of this bill is to allow retailers of gasoline situate in counties that border other states to purchase an exemption form the tax on gasoline, equal to the exemption claimed by the municipality or county in which the retailer is located; and, if the governing body of the municipality or county commission approves, the municipality or county may also purchase the exemption.

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