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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2014

HB 4154

ENROLLED

House Bill No. 4154

(By Delegates Mr. Speaker, (Mr. Miley)
and Delegate Armstead)
(By Request of the Executive)

Passed March 5, 2014

In effect from its passage.

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SECRETARY OF STATE

H. B. 4154

(BY MR. SPEAKER, (MR. MILEY)

AND DELEGATE ARMSTEAD)

[By Request of the Executive]

[Passed March 5, 2014; in effect from its passage.]

AN ACT to amend and reenact §11-14C-9 of the Code of West Virginia, 1931, as amended, relating to clarifying that the refundable amount from the flat rate component of the motor fuel excise tax for certain qualified persons remains six cents per gallon.

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.

- 2 (a) *Per se exemptions from flat rate component of tax.* –
3 Sales of motor fuel to the following, or as otherwise stated in this
4 subsection, are exempt per se from the flat rate of the tax levied

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5 by section five of this article and the flat rate may not be paid at
6 the rack:

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

14 (2) Sales of aviation fuel;

15 (3) Sales of dyed special fuel; and

16 (4) Sales of propane unless sold for use in a motor vehicle.

17 (b) *Per se exemptions from variable component of tax.* –
18 Sales of motor fuel to the following are exempt per se from the
19 variable component of the tax levied by section five of this
20 article and the variable component may not be paid at the rack:

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

28 (c) *Refundable exemptions from flat rate component of*
29 *tax.* – A person having a right or claim to any of the following
30 exemptions from the flat rate component of the tax levied by
31 section five of this article shall first pay the tax levied by this
32 article and then apply to the Tax Commissioner for a refund:

33 (1) The United States or agency thereof: *Provided*, That if
34 the United States government, or agency or instrumentality

35 thereof, does not pay the seller the tax imposed by section five
36 of this article on a purchase of motor fuel, the person selling tax
37 previously paid motor fuel to the United States government, or
38 its agencies or instrumentalities, may claim a refund of the flat
39 rate component of tax imposed by section five of this article on
40 those sales;

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

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

43 (4) A county board of education;

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

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

60 (7) All invoiced gallons of motor fuel purchased by a
61 licensed exporter and subsequently exported from this state to
62 any other state or nation: *Provided*, That the exporter has paid
63 the applicable motor fuel tax to the destination state or nation
64 prior to claiming this refund or the exporter has reported to the
65 destination state or nation that the motor fuel was sold in a
66 transaction not subject to tax in that state or nation. A refund

67 may not be granted on motor fuel which is transported and
68 delivered outside this state in the motor fuel supply tank of a
69 highway vehicle;

70 (8) All gallons of motor fuel used and consumed in station-
71 ary off-highway turbine engines;

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

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

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

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

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

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

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

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

96 (17) Motor fuel used by a person regularly operating a
97 vehicle under a certificate of public convenience and necessity
98 or under a contract carrier permit for transportation of persons
99 when purchased in an amount of twenty-five gallons or more:
100 *Provided*, That the amount refunded is equal to ~~\$0.6~~ \$0.06 per
101 gallon: *Provided, however*, That the gallons of motor fuel have
102 been consumed in the operation of urban and suburban bus lines
103 and the majority of passengers use the bus for traveling a
104 distance not exceeding forty miles, measured one way, on the
105 same day between their places of abode and their places of work,
106 shopping areas or schools; and

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

114 (d) *Refundable exemptions from variable rate component of*
115 *tax.* – Any of the following persons may claim an exemption
116 from the variable rate component of the tax levied by section
117 five of this article on the purchase and use of motor fuel by first
118 paying the tax levied by this article and then applying to the Tax
119 Commissioner for a refund.

120 (1) The United States or agency thereof: *Provided*, That if
121 the United States government, or agency or instrumentality
122 thereof, does not pay the seller the tax imposed by section five
123 of this article on any purchase of motor fuel, the person selling
124 tax previously paid motor fuel to the United States government,
125 or its agencies or instrumentalities, may claim a refund of the
126 variable rate of tax imposed by section five of this article on
127 those sales.

128 (2) This state and its institutions;

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

130 (4) A municipal government or agency thereof;

131 (5) A county board of education;

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

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

144 (8) A bona fide volunteer fire department, nonprofit ambu-
145 lance service or emergency rescue service that has been certified
146 by the municipality or county where the bona fide volunteer fire
147 department, nonprofit ambulance service or emergency rescue
148 service is located; or

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

156 (e) The provision in subdivision (9), subsection (a), section
157 nine, article fifteen of this chapter that exempts as a sale for
158 resale those sales of gasoline and special fuel by a distributor or
159 importer to another distributor does not apply to sales of motor
160 fuel under this article.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Danny Wells

Chairman, House Committee

[Signature]

Chairman, Senate Committee

Originating in the House.

In effect from its passage.

Gregory M. Saly

Clerk of the House of Delegates

Joseph M. Weinaud

Clerk of the Senate

Scott M. Lacy

Speaker of the House of Delegates

[Signature]

President of the Senate

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The within *is appended* this the *20th*
day of *March*, 2014.

Earl Ray Tomblin
Governor

PRESENTED TO THE GOVERNOR

MAR 17 2014

Time 3:30 pm