

**H. B. 2236**

(By Delegate Hunt, By Request)

[Introduced January 12, 2011; referred to the  
Committee on Roads and Transportation then Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §11-15-3c of the Code of West Virginia,  
1931, as amended, to amend and reenact §17A-3-4 of said code,  
all relating to exempting antique cars from taxation and fees.

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

That §11-15-3c of the Code of West Virginia, 1931, as amended,  
be amended and reenacted; that §17A-3-4 of said code be amended and  
reenacted, all to read as follows:

**CHAPTER 11. TAXATION.**

**ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.**

**§11-15-3c. Imposition of consumers sales tax on motor vehicle  
sales; rate of tax; use of motor vehicle purchased  
out of state; definition of sale; definition of  
motor vehicle; exemptions; collection of tax by  
Division of Motor Vehicles; dedication of tax to**

1                   **highways; legislative and emergency rules.**

2           (a) Notwithstanding any provision of this article or article  
3 fifteen-a of this chapter to the contrary, beginning on July 1,  
4 2008, all motor vehicle sales to West Virginia residents shall be  
5 subject to the consumers sales tax imposed by this article.

6           (b) *Rate of tax on motor vehicles.* -- Notwithstanding any  
7 provision of this article or article fifteen-a of this chapter to  
8 the contrary, the rate of tax on the sale and use of a motor  
9 vehicle shall be five percent of its sale price, as defined in  
10 section two, article fifteen-b of this chapter: *Provided, That so*  
11 *much of the sale price or consideration as is represented by the*  
12 *exchange of other vehicles on which the tax imposed by this section*  
13 *or section four, article three, chapter seventeen-a of this code*  
14 *has been paid by the purchaser shall be deducted from the total*  
15 *actual sale price paid for the motor vehicle, whether the motor*  
16 *vehicle be new or used.*

17           (c) *Motor vehicles purchased out of state.* -- Notwithstanding  
18 this article or article fifteen-a to the contrary, the tax imposed  
19 by this section shall apply to all motor vehicles, used as defined  
20 by section one, article fifteen-a of this chapter, within this  
21 state, regardless of whether the vehicle was purchased in a state  
22 other than West Virginia.

23           (d) *Definition of sale.* -- Notwithstanding any provision of  
24 this article or article fifteen-a of this chapter to the contrary,

1 for purposes of this section, "sale", "sales" or "selling" means  
2 any transfer or lease of the possession or ownership of a motor  
3 vehicle for consideration, including isolated transactions between  
4 individuals not being made in the ordinary course of repeated and  
5 successive business and also including casual and occasional sales  
6 between individuals not conducted in a repeated manner or in the  
7 ordinary course of repetitive and successive transactions.

8       (e) *Definition of motor vehicle.* -- For purposes of this  
9 section, "motor vehicle" means every propellable device in or upon  
10 which any person or property is or may be transported or drawn upon  
11 a highway including, but not limited to: Automobiles; buses; motor  
12 homes; motorcycles; motorboats; all-terrain vehicles; snowmobiles;  
13 low-speed vehicles; trucks, truck tractors and road tractors having  
14 a weight of less than fifty-five thousand pounds; trailers,  
15 semitrailers, full trailers, pole trailers and converter gear  
16 having a gross weight of less than two thousand pounds; and  
17 motorboat trailers, fold-down camping trailers, traveling trailers,  
18 house trailers and motor homes; except that the term "motor  
19 vehicle" does not include: Modular homes, manufactured homes,  
20 mobile homes, similar nonmotive propelled vehicles susceptible of  
21 being moved upon the highways but primarily designed for habitation  
22 and occupancy; devices operated regularly for the transportation of  
23 persons for compensation under a certificate of convenience and  
24 necessity or contract carrier permit issued by the Public Service

1 Commission; mobile equipment as defined in section one, article  
2 one, chapter seventeen-a of this code; special mobile equipment as  
3 defined in section one, article one, chapter seventeen-a of this  
4 code; trucks, truck tractors and road tractors having a gross  
5 weight of fifty-five thousand pounds or more; trailers,  
6 semitrailers, full trailers, pole trailers and converter gear  
7 having weight of two thousand pounds or greater: *Provided*, That  
8 notwithstanding the provisions of section nine, article fifteen,  
9 chapter eleven of this code, the exemption from tax under this  
10 section for mobile equipment as defined in section one, article  
11 one, chapter seventeen-a of this code; special mobile equipment  
12 defined in section one, article one, chapter seventeen-a of this  
13 code; Class B trucks, truck tractors and road tractors registered  
14 at a gross weight of fifty-five thousand pounds or more; and Class  
15 C trailers, semitrailers, full trailers, pole trailers and  
16 converter gear having weight of two thousand pounds or greater does  
17 not subject the sale or purchase of the vehicle to the consumer  
18 sales and service tax imposed by section three of this article.

19 (f) *Exemptions*. -- Notwithstanding any other provision of this  
20 code to the contrary, the tax imposed by this section shall not be  
21 subject to any exemption in this code other than the following:

22 (1) The tax imposed by this section does not apply to any  
23 passenger vehicle offered for rent in the normal course of business  
24 by a daily passenger rental car business as licensed under the

1 provisions of article six-d, chapter seventeen-a of this code. For  
2 purposes of this section, a daily passenger car means a motor  
3 vehicle having a gross weight of eight thousand pounds or less and  
4 is registered in this state or any other state. In lieu of the tax  
5 imposed by this section, there is hereby imposed a tax of not less  
6 than \$1 nor more than \$1.50 for each day or part of the rental  
7 period. The Commissioner of Motor Vehicles shall propose an  
8 emergency rule in accordance with the provisions of article three,  
9 chapter twenty-nine-a of this code to establish this tax.

10 (2) The tax imposed by this section does not apply where the  
11 motor vehicle has been acquired by a corporation, partnership or  
12 limited liability company from another corporation, partnership or  
13 limited liability company that is a member of the same controlled  
14 group and the entity transferring the motor vehicle has previously  
15 paid the tax on that motor vehicle imposed by this section. For  
16 the purposes of this section, control means ownership, directly or  
17 indirectly, of stock or equity interests possessing fifty percent  
18 or more of the total combined voting power of all classes of the  
19 stock of a corporation or equity interests of a partnership or  
20 limited liability company entitled to vote or ownership, directly  
21 or indirectly, of stock or equity interests possessing fifty  
22 percent or more of the value of the corporation, partnership or  
23 limited liability company.

24 (3) The tax imposed by this section does not apply where motor

1 vehicle has been acquired by a senior citizen service organization  
2 which is exempt from the payment of income taxes under the United  
3 States Internal Revenue Code, Title 26 U.S.C. §501(c)(3) and which  
4 is recognized to be a bona fide senior citizen service organization  
5 by the Bureau of Senior Services existing under the provisions of  
6 article five, chapter sixteen of this code.

7 (4) The tax imposed by this section does not apply to any  
8 active duty military personnel stationed outside of West Virginia  
9 who acquires a motor vehicle by sale within nine months from the  
10 date the person returns to this state.

11 (5) The tax imposed by this section does not apply to motor  
12 vehicles acquired by registered dealers of this state for resale  
13 only.

14 (6) The tax imposed by this section does not apply to motor  
15 vehicles acquired by this state or any political subdivision  
16 thereof or by any volunteer fire department or duly chartered  
17 rescue or ambulance squad organized and incorporated under the laws  
18 of this state as a nonprofit corporation for protection of life or  
19 property.

20 (7) The tax imposed by this section does not apply to motor  
21 vehicles acquired by an urban mass transit authority, as defined in  
22 article twenty-seven, chapter eight of this code, or a nonprofit  
23 entity exempt from federal and state income tax under the Internal  
24 Revenue Code for the purpose of providing mass transportation to

1 the public at large or designed for the transportation of persons  
2 and being operated for the transportation of persons in the public  
3 interest.

4 (8) The tax imposed by this section does not apply to the  
5 registration of a vehicle owned and titled in the name of a  
6 resident of this state if the applicant:

7 (A) Was not a resident of this state at the time the applicant  
8 purchased or otherwise acquired ownership of the vehicle;

9 (B) Presents evidence as the Commissioner of Motor Vehicles  
10 may require of having titled the vehicle in the applicant's  
11 previous state of residence;

12 (C) Has relocated to this state and can present such evidence  
13 as the Commissioner of Motor Vehicles may require to show bona fide  
14 residency in this state; and

15 (D) Makes application to the Division of Motor Vehicles for a  
16 title and registration and pays all other fees required by chapter  
17 seventeen-a of this code within thirty days of establishing  
18 residency in this state as prescribed in subsection (a), section  
19 one-a of this article.

20 (9) On and after January 1, 2009, the tax imposed by this  
21 section does not apply to Class B trucks, truck tractors and road  
22 tractors registered at a gross weight of fifty-five thousand pounds  
23 or more or to Class C trailers, semitrailers, full trailers, pole  
24 trailers and converter gear having a weight of two thousand pounds

1 or greater. If an owner of a vehicle has previously titled the  
2 vehicle at a declared gross weight of fifty-five thousand pounds or  
3 more and the title was issued without the payment of the tax  
4 imposed by this section, then before the owner may obtain  
5 registration for the vehicle at a gross weight less than fifty-five  
6 thousand pounds, the owner shall surrender to the commissioner the  
7 exempted registration, the exempted certificate of title and pay  
8 the tax imposed by this section based upon the current market value  
9 of the vehicle.

10 (10) The tax imposed by this section does not apply to  
11 vehicles leased by residents of West Virginia. On or after  
12 January 1, 2009, a tax is imposed upon the monthly payments for the  
13 lease of any motor vehicle leased under a written contract of lease  
14 by a resident of West Virginia for a contractually specified  
15 continuous period of more than thirty days, which tax is equal to  
16 five percent of the amount of the monthly payment, applied to each  
17 payment, and continuing for the entire term of the initial lease  
18 period. The tax shall be remitted to the Division of Motor  
19 Vehicles on a monthly basis by the lessor of the vehicle. Leases  
20 of thirty days or less are taxable under the provisions of this  
21 article and article fifteen-a of this chapter without reference to  
22 this section.

23 (g) *Division of Motor Vehicles to collect.* -- Notwithstanding  
24 any provision of this article, article fifteen-a and article ten of



1 this chapter to the contrary, the Division of Motor Vehicles shall  
2 collect the tax imposed by this section: *Provided*, That such tax  
3 is imposed upon the monthly payments for the lease of any motor  
4 vehicle leased by a resident of West Virginia, which tax is equal  
5 to five percent of the amount of the monthly payment, applied to  
6 each payment, and continuing for the entire term of the initial  
7 lease period. The tax shall be remitted to the Division of Motor  
8 Vehicles on a monthly basis by the lessor of the vehicle.

9 (h) *Dedication of tax to highways.* -- Notwithstanding any  
10 provision of this article or article fifteen-a of this chapter to  
11 the contrary, all taxes collected pursuant to this section, after  
12 deducting the amount of any refunds lawfully paid, shall be  
13 deposited in the State Road Fund in the State Treasury and expended  
14 by the Commissioner of Highways for design, maintenance and  
15 construction of roads in the state highway system.

16 (i) *Legislative rules; emergency rules.* -- Notwithstanding any  
17 provision of this article, article fifteen-a and article ten of  
18 this chapter to the contrary, the Commissioner of Motor Vehicles  
19 shall promulgate legislative rules explaining and implementing this  
20 section, which rules shall be promulgated in accordance with the  
21 provisions of article three, chapter twenty-nine-a of this code and  
22 should include a minimum taxable value and set forth instances when  
23 a vehicle is to be taxed at fair market value rather than its  
24 purchase price. The authority to promulgate rules includes

1 authority to amend or repeal those rules. If proposed legislative  
 2 rules for this section are filed in the State Register before  
 3 June 15, 2008, those rules may be promulgated as emergency  
 4 legislative rules as provided in article three, chapter twenty-  
 5 nine-a of this code.

6 (j) Notwithstanding any other provision of this code,  
 7 effective January 1, 2009, no municipal sales or use tax or local  
 8 sales or use tax or special downtown redevelopment district excise  
 9 tax or special district excise tax shall be imposed under article  
 10 twenty-two, chapter seven of this code or article thirteen, chapter  
 11 eight of this code or article thirteen-b of said chapter or article  
 12 thirty-eight of said chapter or any other provision of this code,  
 13 except this section, on sales of motor vehicles as defined in this  
 14 article or on any tangible personal property excepted or exempted  
 15 from tax under this section. Nothing in this subsection shall be  
 16 construed to prevent the application of the municipal business and  
 17 occupation tax on motor vehicle retailers and leasing companies.

18 ~~(H)~~(k) *Antique Cars.* -- Notwithstanding any provision of this  
 19 code to the contrary, there is no sales tax on the sale or purchase  
 20 of antique motor vehicles. "Antique motor vehicle" means any motor  
 21 vehicle which is more than twenty-five years old and is owned  
 22 solely as a collector's item.

23 **CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION,**

24 **CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS**

1 **ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF**  
2 **CERTIFICATES OF TITLE.**

3 **§17A-3-4. Application for certificate of title; fees; abolishing**  
4 **privilege tax; prohibition of issuance of certificate**  
5 **of title without compliance with consumer sales and**  
6 **service tax provisions; exceptions.**

7 (a) Certificates of registration of any vehicle or  
8 registration plates for the vehicle, whether original issues or  
9 duplicates, may not be issued or furnished by the Division of Motor  
10 Vehicles or any other officer or agent charged with the duty,  
11 unless the applicant already has received, or at the same time  
12 makes application for and is granted, an official certificate of  
13 title of the vehicle in either an electronic or paper format. The  
14 application shall be upon a blank form to be furnished by the  
15 Division of Motor Vehicles and shall contain a full description of  
16 the vehicle, which description shall contain a manufacturer's  
17 serial or identification number or other number as determined by  
18 the commissioner and any distinguishing marks, together with a  
19 statement of the applicant's title and of any liens or encumbrances  
20 upon the vehicle, the names and addresses of the holders of the  
21 liens and any other information as the Division of Motor Vehicles  
22 may require. The application shall be signed and sworn to by the  
23 applicant. A duly certified copy of the division's electronic

1 record of a certificate of title is admissible in any civil,  
2 criminal or administrative proceeding in this state as evidence of  
3 ownership.

4 (b) A tax is imposed upon the privilege of effecting the  
5 certification of title of each vehicle in the amount equal to five  
6 percent of the value of the motor vehicle at the time of the  
7 certification, to be assessed as follows:

8 (1) If the vehicle is new, the actual purchase price or  
9 consideration to the purchaser of the vehicle is the value of the  
10 vehicle. If the vehicle is a used or secondhand vehicle, the  
11 present market value at time of transfer or purchase is the value  
12 of the vehicle for the purposes of this section: *Provided*, That so  
13 much of the purchase price or consideration as is represented by  
14 the exchange of other vehicles on which the tax imposed by this  
15 section has been paid by the purchaser shall be deducted from the  
16 total actual price or consideration paid for the vehicle, whether  
17 the vehicle be new or secondhand. If the vehicle is acquired  
18 through gift or by any manner whatsoever, unless specifically  
19 exempted in this section, the present market value of the vehicle  
20 at the time of the gift or transfer is the value of the vehicle for  
21 the purposes of this section.

22 (2) No certificate of title for any vehicle may be issued to  
23 any applicant unless the applicant has paid to the Division of  
24 Motor Vehicles the tax imposed by this section which is five

1 percent of the true and actual value of the vehicle whether the  
2 vehicle is acquired through purchase, by gift or by any other  
3 manner whatsoever, except gifts between husband and wife or between  
4 parents and children: *Provided*, That the husband or wife, or the  
5 parents or children, previously have paid the tax on the vehicles  
6 transferred to the State of West Virginia.

7       (3) The Division of Motor Vehicles may issue a certificate of  
8 registration and title to an applicant if the applicant provides  
9 sufficient proof to the Division of Motor Vehicles that the  
10 applicant has paid the taxes and fees required by this section to  
11 a motor vehicle dealership that has gone out of business or has  
12 filed bankruptcy proceedings in the United States bankruptcy court  
13 and the taxes and fees so required to be paid by the applicant have  
14 not been sent to the division by the motor vehicle dealership or  
15 have been impounded due to the bankruptcy proceedings: *Provided*,  
16 That the applicant makes an affidavit of the same and assigns all  
17 rights to claims for money the applicant may have against the motor  
18 vehicle dealership to the Division of Motor Vehicles.

19       (4) The Division of Motor Vehicles shall issue a certificate  
20 of registration and title to an applicant without payment of the  
21 tax imposed by this section if the applicant is a corporation,  
22 partnership or limited liability company transferring the vehicle  
23 to another corporation, partnership or limited liability company  
24 when the entities involved in the transfer are members of the same

1 controlled group and the transferring entity has previously paid  
2 the tax on the vehicle transferred. For the purposes of this  
3 section, control means ownership, directly or indirectly, of stock  
4 or equity interests possessing fifty percent or more of the total  
5 combined voting power of all classes of the stock of a corporation  
6 or equity interests of a partnership or limited liability company  
7 entitled to vote or ownership, directly or indirectly, of stock or  
8 equity interests possessing fifty percent or more of the value of  
9 the corporation, partnership or limited liability company.

10 (5) The tax imposed by this section does not apply to vehicles  
11 to be registered as Class H vehicles or Class M vehicles, as  
12 defined in section one, article ten of this chapter, which are used  
13 or to be used in interstate commerce. Nor does the tax imposed by  
14 this section apply to the titling of Class B vehicles registered at  
15 a gross weight of fifty-five thousand pounds or more, or to the  
16 titling of Class C semitrailers, full trailers, pole trailers and  
17 converter gear: *Provided*, That if an owner of a vehicle has  
18 previously titled the vehicle at a declared gross weight of fifty-  
19 five thousand pounds or more and the title was issued without the  
20 payment of the tax imposed by this section, then before the owner  
21 may obtain registration for the vehicle at a gross weight less than  
22 fifty-five thousand pounds, the owner shall surrender to the  
23 commissioner the exempted registration, the exempted certificate of  
24 title and pay the tax imposed by this section based upon the

1 current market value of the vehicle: *Provided, however,* That  
2 notwithstanding the provisions of section nine, article fifteen,  
3 chapter eleven of this code, the exemption from tax under this  
4 section for Class B vehicles in excess of fifty-five thousand  
5 pounds and Class C semitrailers, full trailers, pole trailers and  
6 converter gear does not subject the sale or purchase of the  
7 vehicles to the consumers sales and service tax.

8       (6) The tax imposed by this section does not apply to titling  
9 of vehicles leased by residents of West Virginia. A tax is imposed  
10 upon the monthly payments for the lease of any motor vehicle leased  
11 by a resident of West Virginia, which tax is equal to five percent  
12 of the amount of the monthly payment, applied to each payment, and  
13 continuing for the entire term of the initial lease period. The  
14 tax shall be remitted to the Division of Motor Vehicles on a  
15 monthly basis by the lessor of the vehicle.

16       (7) The tax imposed by this section does not apply to titling  
17 of vehicles by a registered dealer of this state for resale only,  
18 nor does the tax imposed by this section apply to titling of  
19 vehicles by this state or any political subdivision thereof, or by  
20 any volunteer fire department or duly chartered rescue or ambulance  
21 squad organized and incorporated under the laws of this state as a  
22 nonprofit corporation for protection of life or property. The  
23 total amount of revenue collected by reason of this tax shall be  
24 paid into the State Road Fund and expended by the Commissioner of

1 Highways for matching federal funds allocated for West Virginia.  
2 In addition to the tax, there is a charge of \$5 for each original  
3 certificate of title or duplicate certificate of title so issued:  
4 *Provided*, That this state or any political subdivision of this  
5 state or any volunteer fire department or duly chartered rescue  
6 squad is exempt from payment of the charge.

7       (8) The certificate is good for the life of the vehicle, so  
8 long as the vehicle is owned or held by the original holder of the  
9 certificate and need not be renewed annually, or any other time,  
10 except as provided in this section.

11       (9) If, by will or direct inheritance, a person becomes the  
12 owner of a motor vehicle and the tax imposed by this section  
13 previously has been paid to the Division of Motor Vehicles on that  
14 vehicle, he or she is not required to pay the tax.

15       (10) A person who has paid the tax imposed by this section is  
16 not required to pay the tax a second time for the same motor  
17 vehicle, but is required to pay a charge of \$5 for the certificate  
18 of retitling of that motor vehicle, except that the tax shall be paid  
19 by the person when the title to the vehicle has been transferred  
20 either in this or another state from the person to another person  
21 and transferred back to the person.

22       (11) The tax imposed by this section does not apply to any  
23 passenger vehicle offered for rent in the normal course of business  
24 by a daily passenger rental car business as licensed under the



1 provisions of article six-d of this chapter. For purposes of this  
2 section, a daily passenger car means a Class A motor vehicle having  
3 a gross weight of eight thousand pounds or less and is registered  
4 in this state or any other state. In lieu of the tax imposed by  
5 this section, there is hereby imposed a tax of not less than \$1 nor  
6 more than \$1.50 for each day or part of the rental period. The  
7 commissioner shall propose an emergency rule in accordance with the  
8 provisions of article three, chapter twenty-nine-a of this code to  
9 establish this tax.

10 (12) The tax imposed by this article does not apply to the  
11 titling of any vehicle purchased by a senior citizen service  
12 organization which is exempt from the payment of income taxes under  
13 the United States Internal Revenue Code, Title 26 U.S.C. §501(c)(3)  
14 and which is recognized to be a bona fide senior citizen service  
15 organization by the senior services bureau existing under the  
16 provisions of article five, chapter sixteen of this code.

17 (13) The tax imposed by this section does not apply to the  
18 titling of any vehicle operated by an urban mass transit authority  
19 as defined in article twenty-seven, chapter eight of this code or  
20 a nonprofit entity exempt from federal and state income tax under  
21 the Internal Revenue Code and whose purpose is to provide mass  
22 transportation to the public at large designed for the  
23 transportation of persons and being operated for the transportation  
24 of persons in the public interest.

1           (14) The tax imposed by this section does not apply to the  
2 transfer of a title to a vehicle owned and titled in the name of a  
3 resident of this state if the applicant:

4           (A) Was not a resident of this state at the time the applicant  
5 purchased or otherwise acquired ownership of the vehicle;

6           (B) Presents evidence as the commissioner may require of  
7 having titled the vehicle in the applicant's previous state of  
8 residence;

9           (C) Has relocated to this state and can present such evidence  
10 as the commissioner may require to show bona-fide residency in this  
11 state;

12           (D) Presents an affidavit, completed by the assessor of the  
13 applicant's county of residence, establishing that the vehicle has  
14 been properly reported and is on record in the office of the  
15 assessor as personal property; and

16           (E) Makes application to the division for a title and  
17 registration, and pays all other fees required by this chapter  
18 within thirty days of establishing residency in this state as  
19 prescribed in subsection (a), section one-a of this article:

20 *Provided*, That a period of amnesty of three months be established  
21 by the commissioner during the calendar year 2007, during which  
22 time any resident of this state, having titled his or her vehicle  
23 in a previous state of residence, may pay without penalty any fees  
24 required by this chapter and transfer the title of his or her

1 vehicle in accordance with the provisions of this section.

2       (c) Notwithstanding any provisions of this code to the  
3 contrary, the owners of trailers, semitrailers, recreational  
4 vehicles and other vehicles not subject to the certificate of title  
5 tax prior to the enactment of this chapter are subject to the  
6 privilege tax imposed by this section: *Provided*, That the  
7 certification of title of any recreational vehicle owned by the  
8 applicant on June 30, 1989, is not subject to the tax imposed by  
9 this section: *Provided, however*, That mobile homes, manufactured  
10 homes, modular homes and similar nonmotive propelled vehicles,  
11 except recreational vehicles and house trailers, susceptible of  
12 being moved upon the highways but primarily designed for habitation  
13 and occupancy, rather than for transporting persons or property, or  
14 any vehicle operated on a nonprofit basis and used exclusively for  
15 the transportation of mentally retarded or physically handicapped  
16 children when the application for certificate of registration for  
17 the vehicle is accompanied by an affidavit stating that the vehicle  
18 will be operated on a nonprofit basis and used exclusively for the  
19 transportation of mentally retarded and physically handicapped  
20 children, are not subject to the tax imposed by this section, but  
21 are taxable under the provisions of articles fifteen and fifteen-a,  
22 chapter eleven of this code.

23       (d) Beginning on July 1, 2008, the tax imposed under this  
24 subsection (b) of this section is abolished and after that date no

1 certificate of title for any motor vehicle may be issued to any  
2 applicant unless the applicant provides sufficient proof to the  
3 Division of Motor Vehicles that the applicant has paid the fees  
4 required by this article and the tax imposed under section three-b,  
5 article fifteen, chapter eleven of this code.

6 (e) Any person making any affidavit required under any  
7 provision of this section who knowingly swears falsely, or any  
8 person who counsels, advises, aids or abets another in the  
9 commission of false swearing, or any person, while acting as an  
10 agent of the Division of Motor Vehicles, issues a vehicle  
11 registration without first collecting the fees and taxes or fails  
12 to perform any other duty required by this chapter or chapter  
13 eleven of this code to be performed before a vehicle registration  
14 is issued is, on the first offense, guilty of a misdemeanor and,  
15 upon conviction thereof, shall be fined not more than \$500 or be  
16 confined in jail for a period not to exceed six months or, in the  
17 discretion of the court, both fined and confined. For a second or  
18 any subsequent conviction within five years, that person is guilty  
19 of a felony and, upon conviction thereof, shall be fined not more  
20 than \$5,000 or be imprisoned in a state correctional facility for  
21 not less than one year nor more than five years or, in the  
22 discretion of the court, both fined and imprisoned.

23 (f) Notwithstanding any other provisions of this section, any  
24 person in the military stationed outside West Virginia or his or

1 her dependents who possess a motor vehicle with valid registration  
2 are exempt from the provisions of this article for a period of nine  
3 months from the date the person returns to this state or the date  
4 his or her dependent returns to this state, whichever is later.

5 (g) No person may transfer, purchase or sell a factory-built  
6 home without a certificate of title issued by the commissioner in  
7 accordance with the provisions of this article:

8 (1) Any person who fails to provide a certificate of title  
9 upon the transfer, purchase or sale of a factory-built home is  
10 guilty of a misdemeanor and, upon conviction thereof, shall for the  
11 first offense be fined not less than \$100 nor more than \$1,000, or  
12 be confined in jail for not more than one year, or both fined and  
13 confined. For each subsequent offense, the fine may be increased  
14 to not more than \$2,000, with confinement in jail not more than one  
15 year, or both fined and confined.

16 (2) Failure of the seller to transfer a certificate of title  
17 upon sale or transfer of the factory-built home gives rise to a  
18 cause of action, upon prosecution thereof, and allows for the  
19 recovery of damages, costs and reasonable attorney fees.

20 (3) This subsection does not apply to a mobile or manufactured  
21 home for which a certificate of title has been canceled pursuant to  
22 section twelve-b of this article.

23 (h) Notwithstanding any other provision to the contrary,  
24 whenever reference is made to the application for or issuance of

1 any title or the recordation or release of any lien, it includes  
2 the application, transmission, recordation, transfer of ownership  
3 and storage of information in an electronic format.

4 (i) Notwithstanding any other provision contained in this  
5 section, nothing herein shall be considered to include modular  
6 homes as defined in subsection (i), section two, article fifteen,  
7 chapter thirty-seven of this code and built to the State Building  
8 Code as established by legislative rules promulgated by the state  
9 Fire Commission pursuant to section five-b, article three, chapter  
10 twenty-nine of this code.

11 (j) Notwithstanding any provision of this code to the  
12 contrary, there is no tax or fee imposed against the owner of  
13 antique motor vehicles. Certificates of title and other permits  
14 required under this section are granted without the imposition of  
15 a fee or tax on the owner. "Antique motor vehicle" means any motor  
16 vehicle which is more than twenty-five years old and is owned  
17 solely as a collector's item.

NOTE: The purpose of this bill is to exempt antique cars from  
taxation and fees.

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