

1 **H. B. 2404**

2
3 (By Delegates Fleischauer, Talbott, Fragale
4 and Wells)

5
6 [Introduced January 12, 2011; referred to the
7 Committee on Energy, Industry and Labor, Economic
8 Development and Small Business then the Judiciary.]
9

10 A BILL to amend and reenact §22-5-15 of the Code of West Virginia,
11 1931, as amended; to amend said code by adding thereto a new
12 article, designated §22-5A-1, §22-5A-2 and §22-5A-3, all
13 relating to air pollution control; strengthening of vehicle
14 emission standards; and creating the "Low Emission Vehicle
15 Act".

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

17 That §22-5-15 of the Code of West Virginia, 1931, as amended,
18 be amended and reenacted; that said code be amended by adding
19 thereto a new article, designated §22-5A-1, §22-5A-2 and §22-5A-3,
20 all to read as follows:

21 **ARTICLE 5. AIR POLLUTION CONTROL.**

22 **§22-5-15. Motor vehicle pollution, inspection and maintenance.**

23 (a) As the state of knowledge and technology relating to the
24 control of emissions from motor vehicles may permit or make
25 appropriate and in furtherance of the purposes of this article, the

1 director may provide by legislative rule for the control of
2 emissions from motor vehicles. The legislative rule may prescribe
3 requirements for the installation and use of equipment designed to
4 reduce or eliminate emissions and for the proper maintenance of
5 such equipment and of vehicles. Any legislative rule pursuant to
6 this section shall be consistent with provisions of federal law, if
7 any, relating to control of emissions from the vehicles concerned.
8 ~~The director shall not require, as a condition precedent to the~~
9 ~~initial sale of a vehicle or vehicular equipment, the inspection,~~
10 ~~certification or other approval of any feature or equipment~~
11 ~~designed for the control of emissions from motor vehicles, if such~~
12 ~~feature or equipment has been certified, approved or otherwise~~
13 ~~authorized pursuant to federal law.~~

14 (b) Except as permitted or authorized by law or legislative
15 rule, no person shall fail to maintain in good working order or
16 remove, dismantle or otherwise cause to be inoperative any
17 equipment or feature constituting an operational element of the air
18 pollution control system or mechanism of a motor vehicle required
19 by rules of the director to be maintained in or on the vehicle.
20 Any such failure to maintain in good working order or removal,
21 dismantling or causing of inoperability subjects the owner or
22 operator to suspension or cancellation of the registration for the
23 vehicle by the Department of Transportation, Division of Motor
24 Vehicles. The vehicle is not thereafter eligible for registration

1 until all parts and equipment constituting operational elements of
2 the motor vehicle have been restored, replaced or repaired and are
3 in good working order.

4 (c) The Department of Transportation, Division of Motor
5 Vehicles, Department of Administration, information and
6 communication services division and the State Police shall make
7 available technical information and records to the director to
8 implement the legislative rule regarding motor vehicle pollution,
9 inspection and maintenance. The director may promulgate a
10 legislative rule establishing motor vehicle pollution, inspection
11 and maintenance standards and imposing an inspection fee at a rate
12 sufficient to implement the motor vehicle inspection program and
13 shall do so when required pursuant to federal law regarding
14 attainment of ambient air quality standards.

15 (d) The director may promulgate a legislative rule requiring
16 maintenance of features of equipment in or on motor vehicles for
17 the purpose of controlling emissions therefrom and shall do so when
18 required pursuant to federal law regarding attainment of ambient
19 air quality standards, and no motor vehicle may be issued a
20 Division of Motor Vehicles registration certificate, or the
21 existing registration certificate shall be revoked, unless the
22 motor vehicle has been found to be in compliance with the
23 director's legislative rule.

24 (e) The remedies and penalties provided in this section and

1 section one, article three, chapter seventeen-a of this code, apply
2 to violations hereof and the provisions of sections six or seven of
3 this article do not apply thereto.

4 (f) As used in this section "motor vehicle" has the same
5 meaning as in chapter seventeen-c of this code.

6 **ARTICLE 5A. GLOBAL WARMING.**

7 **§22-5A-1. Short title.**

8 This article shall be known as the "Low Emission Vehicle Act."

9 **§22-5A-2. Findings and purpose.**

10 (a) The Legislature finds:

11 (1) Air pollution from cars and trucks is dangerous to the
12 health of West Virginia residents;

13 (2) Motor vehicles are a major source of pollution in West
14 Virginia and contribute to greenhouse gasses that cause worldwide
15 climate change; and

16 (3) Technology can significantly reduce dangerous emissions
17 from motor vehicles.

18 (b) This law is enacted to protect the health and safety for
19 West Virginia residents.

20 **§22-5A-3. Low emission vehicles.**

21 (a) The Department of Environmental Protection shall implement
22 Phase II of the California Low Emission Vehicle Program in this
23 state beginning in the 2014 automobile model year. "Phase II of
24 the California Low Emission Vehicle Program" means the second phase

1 of the low emission vehicle program implemented in California,
2 pursuant to the requirements of the Federal Clean Air Act, 42
3 U.S.C. 7401 through 7432.

4 (b) The Department of Environmental Protection shall propose
5 rules for legislative approval in accordance with the provisions of
6 article three, chapter twenty-nine-a of this code as are necessary
7 to implement this section.

NOTE: The purpose of this bill is to give the Director of the Department of Environmental Protection the authority to promulgate new vehicle emission standards. The bill creates the "Low Emission Vehicle Act."

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

This article is new; therefore, it has been completely underscored.