

H. B. 2938

(By Delegates Manypenny, Shaver, Staggers,
Martin, D. Poling, Wells and White)

[Introduced January 28,2011; referred to the

Committee on Roads and Transportation then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-6D-1, §11-6D-2, §11-6D-3, §11-6D-4,
§11-6D-5, §11-6D-6 and §11-6D-7 of the Code of West Virginia,
1931, as amended, all relating to establishing a tax credit
for plug-in electric drive motor vehicles and vehicles using
compressed natural gas as an engine motor fuel; defining
terms; specifying initial availability of the credit and
duration of the credit; providing eligibility for the credit;
calculating the amount of the credit; providing a maximum
credit of \$2,500 per vehicle; and updating language that
applies only to plug-in electric drive and compressed natural
gas motor vehicles.

Be it enacted by the Legislature of West Virginia:

That §11-6D-1, §11-6D-2, §11-6D-3, §11-6D-4, §11-6D-5, §11-6D-
6 and §11-6D-7 of the Code of West Virginia, 1931, as amended, be
amended and reenacted, all to read as follows:

ARTICLE 6D. PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES TAX CREDIT.

§11-6D-1. Legislative findings and purpose.

1 Consistent with the public policy as stated in section one,
2 article two-d, chapter twenty-four of this code, the Legislature
3 hereby finds that the use of alternative fuels, including
4 electricity and compressed natural gas, is in the public interest
5 and promotes the general welfare of the people of this state
6 insofar as it addresses serious concerns for our environment and
7 our state's and nation's dependence on foreign oil as a source of
8 energy. The Legislature further finds that ~~this state has an~~
9 ~~abundant supply of alternative fuels and an extensive supply~~
10 ~~network and that~~ by encouraging the use of ~~alternatively fueled~~
11 plug-in electric drive and compressed natural gas motor vehicles,
12 the state will be reducing its dependence on foreign oil and
13 attempting to improve its air quality.

14 However, because the cost of motor vehicles which utilize
15 alternative-fuel technologies, including electricity and compressed
16 natural gas, remains high in relation to motor vehicles that employ
17 more traditional technologies, citizens of this state who might
18 otherwise choose ~~an alternatively fueled~~ a plug-in electric drive
19 or compressed natural gas motor vehicle are forced by economic
20 necessity to continue using motor vehicles that are fueled by more
21 conventional means. Therefore, in order to encourage the use of
22 ~~alternatively fueled~~ plug-in electric drive and compressed natural
23 gas motor vehicles and possibly reduce unnecessary pollution of
24 our environment and reduce our dependence on foreign sources of
25 energy, there is hereby created ~~an alternative fuel~~ a plug-in

1 electric drive and compressed natural gas motor vehicles tax
2 credit.

3 **§11-6D-2. Definitions.**

4 As used in this article, the following terms have the meanings
5 ascribed to them in this section:

6 ~~(a) "Alternative fuel" includes:~~

7 ~~(1) Compressed natural gas;~~

8 ~~(2) Liquified natural gas;~~

9 ~~(3) Liquified petroleum gas;~~

10 ~~(4) Methanol;~~

11 ~~(5) Ethanol;~~

12 ~~(6) Fuel mixtures that contain eighty-five percent or more by~~
13 ~~volume, when combined with gasoline or other fuels, of the~~
14 ~~following:~~

15 ~~(A) Methanol;~~

16 ~~(B) Ethanol; or~~

17 ~~(C) Other alcohols;~~

18 ~~(7) Coal-derived liquid fuels; and~~

19 ~~(8) Electricity, including electricity from solar energy.~~

20 ~~(b) "Alternative-fuel motor vehicle" means a motor vehicle~~
21 ~~that as a new or retrofitted or converted fuel:~~

22 ~~(1) Operates solely on one alternative fuel;~~

23 ~~(2) Is capable of operating on one or more alternative fuels,~~
24 ~~singly or in combination; or~~

25 ~~(3) Is capable of operating on an alternative fuel and is also~~

1 ~~capable of operating on gasoline or diesel fuel.~~

2 (1) "New qualified plug-in electric drive motor vehicle" means
3 a motor vehicle:

4 (A) The original use of which commences with the taxpayer;

5 (B) Which is made by a manufacturer;

6 (C) Which is acquired for use or lease by the taxpayer and not
7 for resale;

8 (D) Which is treated as a motor vehicle for purposes of title
9 II of the Clean Air Act;

10 (E) Which has a gross vehicle weight rating of less than
11 fourteen thousand pounds; and

12 (F) Which is propelled to a significant extent by an electric
13 motor which draws electricity from a battery which:

14 (i) Has a capacity of at least four kilowatt hours; and

15 (ii) Is capable of being recharged from an external source of
16 electricity.

17 (2) "New qualified compressed natural gas motor vehicle" means
18 a motor vehicle:

19 (A) The original use of which commences with the taxpayer;

20 (B) Which is made by a manufacturer;

21 (C) Which is acquired for use or lease by the taxpayer and not
22 for resale;

23 (D) Which is treated as a motor vehicle for purposes of title
24 II of the Clean Air Act;

25 (E) Which has a gross vehicle weight rating of less than

1 fourteen thousand pounds; and

2 (F) Which is propelled to a significant extent by a motor
3 which uses compressed natural gas as a motor fuel.

4 (3) "Motor vehicle" means any vehicle which is manufactured
5 primarily for use on public streets, roads and highways and which
6 has at least four wheels. The term does not include a vehicle
7 operated exclusively on a rail or rails.

8 **§11-6D-3. Credit allowed for new qualified plug-in electric drive**
9 **motor vehicles; application against personal income**
10 **tax or corporate net income tax; effective date.**

11 The tax credit provided in this article may be applied against
12 the tax liability of a taxpayer imposed by the provisions of either
13 article twenty-one or article twenty-four of this chapter, but in
14 no case may more than one credit be granted for the same
15 ~~alternative-fuel~~ new qualified plug-in electric drive or compressed
16 natural gas motor vehicle as defined in subdivision (b) section two
17 of this article. This credit ~~shall be~~ is available for those tax
18 years beginning after ~~the thirtieth day of June, one thousand nine~~
19 ~~hundred ninety-seven~~ June 30, 2011.

20 **§11-6D-4. Eligibility for credit.**

21 (a) A taxpayer is eligible to claim the credit against tax
22 provided in this article if he or she:

23 ~~(a)~~ (1) Converts a motor vehicle that is presently registered
24 in West Virginia to: ~~operate:~~

1 ~~(1) Exclusively on an alternative fuel as defined in~~
2 ~~subdivision (a), section two of this article; or~~

3 ~~(2) In a dual fuel mode, as defined in paragraph (6),~~
4 ~~subdivision (a), section two of this article; or~~

5 A qualified plug-in electric drive motor vehicle which, for
6 the purposes of this subdivision means any new plug-in electric
7 drive motor vehicle as defined in subdivision (1), section two of
8 this article, without regard to paragraphs (A) and (B), and that
9 conversion is made before December 31, 2012; or

10 (2) A qualified compressed natural gas motor vehicle which,
11 for the purposes of this subdivision means any new compressed
12 natural gas vehicle as defined in subdivision (2), section two of
13 this article, without regard to paragraphs (A) and (B), and that
14 conversion is made before December 31, 2012;

15 ~~(b) (3)~~ Purchases from an original equipment manufacturer or
16 an after-market conversion facility a new ~~dedicated or dually~~
17 ~~fueled alternative fuel~~ qualified plug-in electric drive or
18 compressed natural gas motor vehicle for which the taxpayer then
19 obtains a valid West Virginia registration.

20 ~~(c) (b)~~ The credit provided in this article ~~is not available~~
21 ~~to and~~ may not be claimed by any taxpayer under any obligation
22 pursuant to any federal or state law, policy or regulation to
23 convert to the use of ~~alternative fuels for any motor vehicle~~ plug-
24 in electric drive or compressed natural gas motor vehicles.

25 **§11-6D-5. Amount of credit.**

1 (a) The total amount of any credit allowed under this article
2 is limited by and subject to the provisions set forth in this
3 subsection and subsections (b) and (c) ~~and (d)~~ of this section and
4 may not exceed:

5 (1) In the case of a motor vehicle conversions or
6 retrofitting, ~~the actual cost of converting from a traditionally-~~
7 ~~fueled motor vehicle to an alternatively-fueled motor vehicle~~ ten
8 percent of the actual cost of the conversion; or

9 (2) In the case of a new purchase, ~~the incremental difference~~
10 ~~in cost between an alternative-fuel motor vehicle and a comparably~~
11 ~~equipped motor vehicle that employs traditional fuel technology.~~
12 sum of \$2,500.

13 (b) The maximum total credit allowed per vehicle under this
14 section is \$2,500.

15 ~~(1) For a vehicle with a gross vehicle weight of not more than~~
16 ~~ten thousand pounds, \$3,750.~~

17 ~~(2) For a vehicle with a gross vehicle weight of more than ten~~
18 ~~thousand pounds up to twenty-six thousand pounds, \$9,250;~~

19 ~~(3) For a truck or van with a gross vehicle weight of more~~
20 ~~than twenty-six thousand pounds, \$50,000; and~~

21 ~~(4) For a bus capable of seating at least twenty adults,~~
22 ~~\$50,000.~~

23 ~~(c) Subject to the limitations set forth in subsection (a) of~~
24 ~~this section, a taxpayer who is otherwise entitled to a credit~~
25 ~~against tax who claims the credit provided for in this article on~~

1 ~~the basis of any alternative-fuel motor vehicle that operates~~
2 ~~exclusively on electricity is entitled to an additional credit of~~
3 ~~ten percent of the credit which is otherwise allowed under~~
4 ~~subsection (b) of this section.~~

5 ~~(d)~~ (c) The maximum incremental credit allowed per year is one
6 third of the credit attributable to five vehicles with the
7 cumulative credit over a three-year period not to exceed one third
8 of the credit attributable to fifteen vehicles.

9 **§11-6D-6. Credit to be apportioned over three-year period.**

10 The credit against tax for any ~~alternative-fuel~~ plug-in
11 electric drive or compressed natural gas motor vehicle provided for
12 in this article may be taken by a taxpayer claiming the credit only
13 in three equal increments over a three-consecutive tax-year period,
14 so that in any tax year in which a taxpayer is entitled to the
15 credit, only one third of the total credit allowed for a ~~certain~~
16 ~~alternative-fuel~~ qualified plug-in electric drive or compressed
17 natural gas motor vehicle under section five of this article may be
18 taken.

19 **§11-6D-7. Duration of availability of credit.**

20 (a) Except as otherwise provided in this article, the tax
21 credit provided in this article shall expire by operation of law
22 ten years after the effective date of the amendments to this
23 article during the 2011 regular session of the Legislature.

24 ~~Provided, That~~ Any eligible taxpayer who makes a valid claim for
25 the credit before that expiration is entitled to claim and receive

1 the remaining one-third increment or increments of the total credit
2 allowed under section five of this article for the tax year or
3 years ensuing after the expiration of this article until the total
4 amount of credit allowed has been exhausted.

NOTE: The purpose of this bill is to provide a tax incentive for plug-in electric drive motor vehicles and vehicles using compressed natural gas as an engine motor fuel. The bill defines terms. The bill specifies initial availability of the credit and duration of the credit. The bill sets forth eligibility for the credit and provides a calculation of the amount of the credit, up to a maximum credit of \$2,500 per vehicle. Further, the bill updates language to apply only to plug-in electric drive and compressed natural gas motor vehicles.

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