

H. B. 3232

(By Delegates Canterbury, Walters, Hamilton,  
Evans and Azinger)

[Introduced February 21, 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, relating to consumers sales tax on motor  
vehicles; exemptions; and providing an exemption on sales of  
motor vehicles using natural gas or dual purpose motor  
vehicles using a combination of gasoline and natural gas as  
fuel.

*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 to read as follows:

**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  
highways; legislative and emergency rules.**

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

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

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

22           (d) *Definition of sale.* -- Notwithstanding any provision of  
23 this article or article fifteen-a of this chapter to the contrary,  
24 for purposes of this section, "sale", "sales" or "selling" means

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

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

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

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

21 (1) The tax imposed by this section does not apply to any  
22 passenger vehicle offered for rent in the normal course of business  
23 by a daily passenger rental car business as licensed under the  
24 provisions of article six-d, chapter seventeen-a of this code. For

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

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

23       (3) The tax imposed by this section does not apply where motor  
24 vehicle has been acquired by a senior citizen service organization

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

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

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

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

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

1 and being operated for the transportation of persons in the public  
2 interest.

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

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

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

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

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

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

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

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

22       (11) On and after July 1, 2011, the tax imposed by this  
23 section does not apply to motor vehicles using natural gas as fuel  
24 and dual purpose motor vehicles using both gasoline and natural



1 gas as fuel.

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

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

19       (i) *Legislative rules; emergency rules.* -- Notwithstanding any  
20 provision of this article, article fifteen-a and article ten of  
21 this chapter to the contrary, the Commissioner of Motor Vehicles  
22 shall promulgate legislative rules explaining and implementing this  
23 section, which rules shall be promulgated in accordance with the  
24 provisions of article three, chapter twenty-nine-a of this code and

1 should include a minimum taxable value and set forth instances when  
2 a vehicle is to be taxed at fair market value rather than its  
3 purchase price. The authority to promulgate rules includes  
4 authority to amend or repeal those rules. If proposed legislative  
5 rules for this section are filed in the state Register before  
6 June 15, 2008, those rules may be promulgated as emergency  
7 legislative rules as provided in article three, chapter twenty-  
8 nine-a of this code.

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

NOTE: The purpose of this bill is to exempt the tax on sales  
of motor vehicles using natural gas or dual purpose motor vehicles  
using a combination of gasoline and natural gas as fuel.

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