

1 **Division of Motor Vehicles; dedication of tax to**
2 **highways; legislative and emergency rules.**

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

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

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

1 (d) *Definition of sale.* -- Notwithstanding any provision of
2 this article or article fifteen-a of this chapter to the contrary,
3 for purposes of this section, "sale", "sales" or "selling" means
4 any transfer or lease of the possession or ownership of a motor
5 vehicle for consideration, including isolated transactions between
6 individuals not being made in the ordinary course of repeated and
7 successive business and also including casual and occasional sales
8 between individuals not conducted in a repeated manner or in the
9 ordinary course of repetitive and successive transactions.

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

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

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

24 (1) The tax imposed by this section does not apply to any

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

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

1 limited liability company.

2 (3) The tax imposed by this section does not apply where motor
3 vehicle has been acquired by a senior citizen service organization
4 which is exempt from the payment of income taxes under the United
5 States Internal Revenue Code, Title 26 U.S.C. §501(c)(3) and which
6 is recognized to be a bona fide senior citizen service organization
7 by the Bureau of Senior Services existing under the provisions of
8 article five, chapter sixteen of this code.

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

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

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

22 (7) The tax imposed by this section does not apply to motor
23 vehicles acquired by an urban mass transit authority, as defined in
24 article twenty-seven, chapter eight of this code, or a nonprofit

1 entity exempt from federal and state income tax under the Internal
2 Revenue Code for the purpose of providing mass transportation to
3 the public at large or designed for the transportation of persons
4 and being operated for the transportation of persons in the public
5 interest.

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

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

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

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

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

22 (9) On and after January 1, 2009, the tax imposed by this
23 section does not apply to Class B trucks, truck tractors and road
24 tractors registered at a gross weight of fifty-five thousand pounds

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

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

1 (11) On and after July 1, 2013, the tax imposed by this
2 section does not apply to motor vehicles using natural gas as fuel
3 and dual purpose motor vehicles using both gasoline and natural
4 gas as fuel.

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

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

22 (i) *Legislative rules; emergency rules.* -- Notwithstanding any
23 provision of this article, article fifteen-a and article ten of
24 this chapter to the contrary, the Commissioner of Motor Vehicles

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

12 (j) Notwithstanding any other provision of this code,
13 effective January 1, 2009, no municipal sales or use tax or local
14 sales or use tax or special downtown redevelopment district excise
15 tax or special district excise tax ~~shall~~ may be imposed under
16 article twenty-two, chapter seven of this code or article thirteen,
17 chapter eight of this code or article thirteen-b of said chapter or
18 article thirty-eight of said chapter or any other provision of this
19 code, except this section, on sales of motor vehicles as defined in
20 this article or on any tangible personal property excepted or
21 exempted from tax under this section. Nothing in this subsection
22 ~~shall~~ may be construed to prevent the application of the municipal
23 business and occupation tax on motor vehicle retailers and leasing
24 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.