

Senate Bill No. 497

(By Senators Walters, Barnes, Green, D. Hall, Kirkendoll,
Miller, Nohe, Stollings, Sypolt and Tucker)

[Introduced March 12, 2013; referred to the Committee on the
Judiciary; and then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new article, designated §11-13DD-1,
§11-13DD-2 and §11-13DD-3; to amend and reenact §15-5-21 of
said code; to amend said code by adding thereto a new section,
designated §17-2A-8d; and to amend and reenact §55-7D-1 of
said code, all relating to improving state emergency
preparedness; creating an emergency generator tax credit for
natural gas-, propane-, gasoline- or diesel-fueled machines;
requiring the Office of Emergency Services to coordinate with
local radio and television stations to broadcast public
service announcements with information as to the location of
emergency shelters; authorizing the Commissioner of Highways
to erect signs relating to emergency shelters; providing tax
credits for use of emergency generators; and providing a
protection from civil or criminal liability to persons

1 donating food during times of emergencies.

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

3 That the Code of West Virginia, 1931, as amended, be amended
4 by adding thereto a new article, designated §11-13DD-1, §11-13DD-2
5 and §11-13DD-3; that §15-5-21 of said code be amended and reenacted;
6 that said code be amended by adding thereto a new section,
7 designated §17-2A-8d; and that §55-7D-1 of said code be amended and
8 reenacted, all to read as follows:

9 **CHAPTER 11. TAXATION.**

10 **ARTICLE 13DD. EMERGENCY GENERATOR TAX CREDIT.**

11 **§11-13DD-1. Amount of credit.**

12 Any taxpayer who installs or causes to be installed an
13 emergency generator powered by natural gas, propane, gasoline or
14 diesel fuel on property located in this state and owned by the
15 taxpayer and used as a place of business or residence after July 1,
16 2013, shall be allowed a credit against the taxes imposed in
17 articles twenty-one, twenty-three and twenty-four of this chapter
18 in an amount equal to thirty percent of the cost to purchase and
19 install the system up to a maximum amount of \$3,000.

20 **§11-13DD-2. Restrictions.**

21 In order to receive the credit for an emergency generator, the
22 generator may use natural gas, propane, gasoline or diesel fueled
23 machines for its operation. The generator shall be permanently

1 installed and wired to the electrical panel in the residence or
2 building with insulating back-flow and shut off protection.

3 **§11-13DD-3. Carryover credit allowed; Tax Commissioner to**
4 **promulgate rules.**

5 If the amount of the credit exceeds the taxpayer's liability
6 for the taxable year, the amount which exceeds the tax liability may
7 be carried over and applied as a credit against the tax liability
8 of the taxpayer pursuant to the provisions of articles twenty-one,
9 twenty-three and twenty-four of this chapter to each of the next
10 taxable years unless sooner used.

11 The State Tax Commissioner shall promulgate rules for
12 legislative approval pursuant to the provisions of chapter
13 twenty-nine-a of this code regarding the applicability, method of
14 claiming of the credit, recapture of the credit and documentation
15 necessary to claim the credit allowed by this article. No taxpayer
16 may take a credit pursuant to this article for an emergency
17 generator placed in service by natural gas or propane after July 1,
18 2015.

19 **CHAPTER 15. PUBLIC SAFETY.**

20 **ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.**

21 **§15-5-21. Communications.**

22 (a) The Office of Emergency Services shall ascertain what means
23 exist for rapid and efficient communication in times of disaster.

1 The office shall consider the desirability of supplementing such
2 communication resources or of integrating them into a comprehensive
3 state or federal-state telecommunications or other communications
4 system or network. In studying the character and feasibility of any
5 system or its several parts, the office shall evaluate the
6 possibility of multipurpose use thereof for various state, regional
7 and local governmental purposes. The office shall make
8 recommendations to the Governor as appropriate.

9 (b) The Office of Emergency Services shall coordinate planning
10 with local radio and television stations to broadcast public service
11 announcements that inform the listening and viewing areas as to the
12 location of emergency shelters during stated emergencies. The plans
13 shall include the requirement that the local radio and television
14 stations broadcast the public service announcements every thirty
15 minutes, fifteen minutes before the hour and fifteen minutes after
16 the hour.

17 **CHAPTER 17. ROADS AND HIGHWAYS.**

18 **ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.**

19 **§17-2A-8d. Authority to provide signs guiding travelers to**
20 **emergency shelters.**

21 In addition to the other powers given and assigned to him or
22 her in this chapter, when an emergency exists, the Commissioner of
23 Highways may cause the placement of signs along the interstate

1 highways and other roadways guiding travelers to emergency shelters.
2 The commissioner along with the Director of Homeland Security and
3 Emergency Management shall develop a plan to start implementation
4 by July 1, 2014.

5 **CHAPTER 55. ACTIONS, SUITS AND ARBITRATION; JUDICIAL SALE.**

6 **ARTICLE 7D. GOOD SAMARITAN FOOD DONATION ACT.**

7 **§55-7D-1. Legislative findings.**

8 The Legislature finds that wholesale and retail food
9 distributors, shipping terminals and other establishments across the
10 state are disposing of food that could be made available to those
11 in need. However, many potential food donors are discouraged from
12 donating this food because of potential liability. The United
13 States Congress has recognized the need to encourage food
14 distributors to make otherwise disposed-of food products available
15 to those in need and has adopted Title 42 United States Code §1791
16 entitled the "Bill Emerson Good Samaritan Food Donation Act." This
17 federal law encourages state and local governments to enact good
18 Samaritan or donor liability limitation laws to encourage private
19 cooperative efforts to provide food for hungry people within their
20 respective jurisdictions. The Legislature finds that this is a
21 worthy goal, and therefore it is appropriate for the state to
22 encourage participation in food donation programs by providing a
23 statutory framework to protect food donators from liability for
24 their good faith efforts, including food donators during declared

1 states of emergency to local emergency centers.

NOTE: The purpose of this bill is to improve state emergency preparedness. The bill requires the Commissioner of Highways to erect signs on the interstate highways and other roadways relating to directions to emergency shelters. It requires the Office of Emergency Services to coordinate with local radio and television stations to broadcast public service announcements with information as to the location of emergency shelters. The bill provides tax credits for use of natural gas, propane, gasoline or diesel fueled emergency generators. And, the bill provides a protection from civil or criminal liability to persons who donate food during times of emergencies.

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

§17-2A-8d is new; therefore, strike-throughs and underscoring have been omitted.

Article 13DD is new; therefore, strike-throughs and underscoring have been omitted.