

1 **H. B. 4126**

2
3 (By Delegate Walters)

4 [Introduced January 14, 2014; referred to the
5 Committee on Veterans' Affairs and Homeland Security then
6 Finance.]

**FISCAL
NOTE**

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10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §11-13DD-1, §11-13DD-
12 2 and §11-13DD-3; to amend and reenact §15-5-21 of said code;
13 and to amend and reenact §55-7D-1 of said code, all relating
14 to improving state emergency preparedness; creating an
15 emergency generator tax credit for gas or propane fueled
16 machines; requiring the Office of Emergency Services to
17 coordinate with local radio and television stations to
18 broadcast public service announcements with information as to
19 the location of emergency shelters; and providing a protection
20 from civil or criminal liability to persons donating food
21 during times of emergencies.

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

23 That the Code of West Virginia, 1931, as amended, be amended
24 by adding thereto a new article, designated §11-13DD-1, §11-13DD-2

1 and §11-13DD-3; that §15-5-21 of said code be amended and
2 reenacted; and that §55-7D-1 of said code be amended and reenacted,
3 all to read as follows:

4 **CHAPTER 11. TAXATION.**

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

6 **§11-13DD-1. Amount of credit.**

7 A taxpayer who installs or causes to be installed an emergency
8 generator powered by natural gas or propane on property located in
9 this state and used as a place of business or residence by the
10 taxpayer after July 1, 2014, is allowed a credit against the taxes
11 imposed in articles twenty-one, twenty-three and twenty-four of
12 this chapter in an amount equal to thirty percent of the cost to
13 purchase and install the system up to a maximum amount of \$3,000.

14 **§11-13DD-2. Restrictions.**

15 In order to receive the credit for an emergency generator, the
16 generator shall use natural gas or propane fueled machines for its
17 operation. The generator shall be permanently installed and wired
18 to the electrical panel in the residence or building with
19 insulating back-flow and shut off protection.

20 **§11-13DD-3. Carryover credit allowed; Tax Commissioner to propose**
21 **rules.**

22 If the amount of the credit exceeds the taxpayer's liability
23 for the taxable year, the amount which exceeds the tax liability

1 may be carried over and applied as a credit against the tax
2 liability of the taxpayer pursuant to the provisions of articles
3 twenty-one, twenty-three and twenty-four of this chapter to each of
4 the next taxable years unless sooner used.

5 The State Tax Commissioner shall propose rules for legislative
6 approval pursuant to the provisions of article three, chapter
7 twenty-nine-a of this code regarding the applicability, method of
8 claiming of the credit, recapture of the credit and documentation
9 necessary to claim the credit allowed by this article. A taxpayer
10 may not take a credit pursuant to this article for an emergency
11 generator purchased or installed after July 1, 2016, except to the
12 extent that the credit was not used in a prior tax year and is
13 carried forward.

14 **CHAPTER 15. PUBLIC SAFETY.**

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

16 **§15-5-21. Communications.**

17 (a) The Office of Emergency Services shall ascertain what
18 means exist for rapid and efficient communication in times of
19 disaster. The office shall consider the desirability of
20 supplementing such communication resources or of integrating them
21 into a comprehensive state or federal-state telecommunications or
22 other communications system or network. In studying the character
23 and feasibility of any system or its several parts, the office
24 shall evaluate the possibility of multipurpose use thereof for

1 various state, regional and local governmental purposes. The
2 office shall make recommendations to the Governor as appropriate.

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

11 **CHAPTER 55. ACTIONS, SUITS AND ARBITRATION;**

12 **JUDICIAL SALE.**

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

14 **§55-7D-1. Legislative findings.**

15 The Legislature finds that wholesale and retail food
16 distributors, shipping terminals and other establishments across
17 the state are disposing of food that could be made available to
18 those in need. However, many potential food donors are discouraged
19 from donating this food because of potential liability. The United
20 States Congress has recognized the need to encourage food
21 distributors to make otherwise disposed-of food products available
22 to those in need and has adopted Title 42 United States Code §1791
23 entitled the "Bill Emerson Good Samaritan Food Donation Act." This

1 federal law encourages state and local governments to enact good
2 samaritan or donor liability limitation laws to encourage private
3 cooperative efforts to provide food for hungry people within their
4 respective jurisdictions. The Legislature finds that this is a
5 worthy goal, and therefore it is appropriate for the state to
6 encourage participation in food donation programs by providing a
7 statutory framework to protect food donators from liability for
8 their good faith efforts, including food donators during declared
9 states of emergency to local emergency centers.

NOTE: The purpose of this bill is to improve state emergency preparedness. 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 or propane fueled emergency generators. The bill also 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.

Chapter 11, Article 13DD is new; therefore, it has been completely underscored.