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H. B. 2410

(By Delegates Walters, Canterbury, Amber, Cooper, H. White,
R. Smith, J. Nelson, Stansbury, R. Phillips, McGeehan and Byrd)

[Introduced January 27, 2015; referred to the
Committee on Veterans’ Affairs and Homeland Security then 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; 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 gas, diesel or propane 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; and providing a protection from civil or criminal liability to persons donating food during times of emergencies.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 11. TAXATION.

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

2 **§11-13DD-1. Amount of credit.**

3 A taxpayer who installs or causes to be installed an emergency generator powered by natural
4 gas, diesel or propane on property located in this state and used as a place of business or residence
5 by the taxpayer after July 1, 2015, is allowed a credit against the taxes imposed in articles twenty-
6 one, twenty-three and twenty-four of this chapter in an amount equal to thirty percent of the cost to
7 purchase and install the system up to a maximum amount of \$3,000.

8 **§11-13DD-2. Restrictions.**

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

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

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

18 The State Tax Commissioner shall propose rules for legislative approval pursuant to the
19 provisions of article three, chapter twenty-nine-a of this code regarding the applicability, method of
20 claiming of the credit, recapture of the credit and documentation necessary to claim the credit
21 allowed by this article. A taxpayer may not take a credit pursuant to this article for an emergency
22 generator purchased or installed after July 1, 2017, except to the extent that the credit was not used

1 in a prior tax year and is carried forward.

2 **CHAPTER 15. PUBLIC SAFETY.**

3 **ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY**
4 **MANAGEMENT.**

5 **§15-5-21. Communications.**

6 (a) The Office of Emergency Services shall ascertain what means exist for rapid and efficient
7 communication in times of disaster. The office shall consider the desirability of supplementing such
8 communication resources or of integrating them into a comprehensive state or federal-state
9 telecommunications or other communications system or network. In studying the character and
10 feasibility of any system or its several parts, the office shall evaluate the possibility of multipurpose
11 use thereof for various state, regional and local governmental purposes. The office shall make
12 recommendations to the Governor as appropriate.

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

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

19 **JUDICIAL SALE.**

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

21 **§55-7D-1. Legislative findings.**

22 The Legislature finds that wholesale and retail food distributors, shipping terminals and other

1 establishments across the state are disposing of food that could be made available to those in need.
2 However, many potential food donors are discouraged from donating this food because of potential
3 liability. The United States Congress has recognized the need to encourage food distributors to make
4 otherwise disposed-of food products available to those in need and has adopted Title 42 United
5 States Code §1791 entitled the "Bill Emerson Good Samaritan Food Donation Act." This federal
6 law encourages state and local governments to enact good samaritan or donor liability limitation laws
7 to encourage private cooperative efforts to provide food for hungry people within their respective
8 jurisdictions. The Legislature finds that this is a worthy goal, and therefore it is appropriate for the
9 state to encourage participation in food donation programs by providing a statutory framework to
10 protect food donators from liability for their good faith efforts, including food donators during
11 declared 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, diesel 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.

§11-13DD-1 through 3 are new; therefore, it has been completely underscored.