

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; utility
12 terrain vehicles; snowmobiles; low-speed vehicles; trucks, truck
13 tractors and road tractors having a weight of less than fifty-five
14 thousand pounds; trailers, semitrailers, full trailers, pole
15 trailers and converter gear having a gross weight of less than two
16 thousand pounds; and motorboat trailers, fold-down camping
17 trailers, traveling trailers, house trailers and motor homes;
18 except that the term "motor vehicle" does not include: Modular
19 homes, manufactured homes, mobile homes, similar nonmotive
20 propelled vehicles susceptible of being moved upon the highways but
21 primarily designed for habitation and occupancy; devices operated
22 regularly for the transportation of persons for compensation under
23 a certificate of convenience and necessity or contract carrier
24 permit issued by the Public Service Commission; mobile equipment as

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

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

22 (1) The tax imposed by this section does not apply to any
23 passenger vehicle offered for rent in the normal course of business
24 by a daily passenger rental car business as licensed under the

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

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

24 (3) The tax imposed by this section does not apply where motor

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

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

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

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

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

1 the public at large or designed for the transportation of persons
2 and being operated for the transportation of persons in the public
3 interest.

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

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

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

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

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

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

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

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

22 (11) The tax imposed by this section does not apply to utility
23 terrain vehicle used for the commercial production of an
24 agricultural product whose ultimate sale is subject to tax under

1 this article where the vehicle is used on farmland valued in
2 accordance with section ten, article one-a of this chapter and
3 legislative rule: *Provided*, That the purchaser presents to the
4 vendor a completed application for farm use valuation for the
5 property being farmed by the purchaser and the application bears
6 the assessor's stamp that the application was granted.

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

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

24 (i) *Legislative rules; emergency rules.* -- Notwithstanding any

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

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

1 occupation tax on motor vehicle retailers and leasing companies.

NOTE: The purpose of this bill is to tax utility terrain vehicles. The bill makes an exception for vehicles used for agricultural purposes. The bill also defines utility terrain vehicles as motor vehicles.

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