

1 ENGROSSED

2 COMMITTEE SUBSTITUTE

3 FOR

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5 FOR

6 **Senate Bill No. 624**

7 (By Senators Browning, Unger, McCabe, Williams, Klempa and
8 Stollings)

9 _____
10 [Originating in the Committee on Finance;
11 reported February 27, 2012.]

12 _____
13 A BILL to amend the Code of West Virginia, 1931, as amended, by
14 adding thereto a new section, designated §11-6D-10; and to
15 amend said code by adding thereto a new section, designated
16 §11-14C-5a, all relating generally to use of alternative-fuel
17 motor vehicles; permitting transfer of tax credits for
18 purchase of alternative-fuel vehicles, conversion to an
19 alternative-fuel vehicle or construction of alternative-fuel
20 vehicle infrastructure; providing method of collection of
21 motor fuel excise taxes when liquified natural gas, compressed
22 natural gas or natural gas hydrocarbon and derivative are used
23 as motor fuel; and specifying expiration date.

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

25 That the Code of West Virginia, 1931, as amended, be amended
26 by adding thereto a new section, designated §11-6D-10; and that

1 said code be amended by adding thereto a new section, designated
2 §11-14C-5a, all to read as follows:

3 **ARTICLE 6D. ALTERNATIVE-FUEL MOTOR VEHICLES TAX CREDIT.**

4 **§11-6D-10. Transfer or sale of credit.**

5 (a) For purposes of this article and notwithstanding any
6 provision in the code to the contrary, a governmental entity and a
7 nonprofit entity constitute a "taxpayer" as that term is defined in
8 section two of this article and are entitled to take and transfer
9 tax credits which are provided for in this article. Any entity may
10 transfer and sell the right to a tax credit issued pursuant to this
11 article for liquefied natural gas vehicles, compressed natural gas
12 vehicles, natural gas hydrocarbon and derivative vehicles and
13 qualified alternative-fuel vehicle refueling infrastructure to any
14 taxpayer, subject to the following conditions:

15 (1) A single transfer or sale may involve one or more
16 transferees, assignees or purchasers. A transfer or sale of the
17 credits may involve multiple transfers to one or more transferees,
18 assignees or purchasers.

19 (2) Transferors and sellers shall apply to the tax department
20 for approval of any transfer, sale or assignment of the tax credit.
21 Any amount of the tax credit that has been transferred or assigned
22 is subject to the same limitations and conditions that apply to
23 transferor's or seller's entitlement, use and application of the
24 credit. The application for sale, transfer or assignment of the
25 credit shall include the transferor's tax credit balance prior to
26 transfer, if any, the name of the seller, the transferor's

1 remaining tax credit balance after transfer, if any, all tax
2 identification numbers for both transferor, if any, and transferee,
3 the date of transfer, the amount transferred and any other
4 information required by the Tax Commissioner. The Tax Commissioner
5 shall either approve or disapprove the application for sale,
6 transfer or assignment of the tax credit within thirty days of
7 receipt of the application. In the event the Tax Commissioner
8 denies the application for sale, transfer or assignment of the tax
9 credit, the Tax Commissioner shall provide the reason for such
10 denial: *Provided*, That the total amount of tax credits authorized
11 to be transferred by governmental entities and nonprofit entities
12 in any one calendar year in the aggregate shall not exceed \$1
13 million.

14 (3) The Tax Commissioner may not approve the transfer or
15 assignment of a tax credit to a taxpayer if the seller or
16 transferor has an outstanding tax obligation with the state of West
17 Virginia.

18 (b) The transferee, assignee or purchaser shall apply the tax
19 credits as required by this article and is subject to all
20 conditions and limitations of this article.

21 (c) For purposes of this section, any proceeds received by the
22 transferor for its assignment or sale of the tax credits allowed
23 pursuant to this section are exempt from the West Virginia
24 consumers sales and service tax and use tax and from the
25 corporation net income tax and personal income tax.

26 (d) The purpose of this section is to authorize any entity to

1 take and transfer tax credits provided in this article, and
2 specifically allow government entities and nonprofit entities to
3 utilize certain tax credits issued pursuant to this article.

4 **ARTICLE 14C. MOTOR FUEL EXCISE TAX.**

5 **§11-14C-5a. Collection of motor fuel excises taxes when compressed**
6 **natural gas, liquified natural gas or natural gas hydrocarbon**
7 **and derivative used as motor fuel; expiration date.**

8 (a) Beginning July 1, 2012, in lieu of the motor fuels excise
9 taxes levied by section five of this article, there is hereby
10 levied a flat tax of \$100 per year on liquified natural gas (LNG),
11 compressed natural gas (CNG) and natural gas hydrocarbon and
12 derivative used as motor fuel in each passenger automobile or
13 motorcycle, and in each pickup truck or van not exceeding one (1)
14 ton in capacity, using liquefied natural gas (LNG), compressed
15 natural gas (CNG) or natural gas hydrocarbon and derivative as
16 motor fuel, except that no tax shall be levied on any vehicle owned
17 or leased by an entity that is exempt from tax pursuant to
18 subdivisions (1) through (6), subsection (c), section nine of this
19 article.

20 (b) Beginning July 1, 2012, in lieu of the motor fuel excise
21 taxes imposed by section five or this article, there is hereby
22 levied a flat tax on liquified natural gas (LNG), compressed
23 natural gas (CNG) and natural gas hydrocarbon and derivative used
24 as motor fuel in a vehicle equal to \$150 per year for each motor
25 vehicle exceeding one (1) ton in capacity, using liquified natural

1 gas (LNG), compressed natural gas (CNG) or natural gas hydrocarbon
2 and derivative as motor fuel, except that no tax shall be levied on
3 any vehicle owned or leased by an entity that is exempt from tax
4 pursuant to subdivisions (1) through (6), subsection (c), section
5 nine of this article.

6 (c) The one-year period provided for in subsections (a) and
7 (b) of this section shall begin on July 1 of the calendar year and
8 expire at the end of the day that is June 30 of the next calendar
9 year.

10 (d) Payment of the taxes levied by this section shall be
11 evidenced by a decal issued by the Tax Commissioner, which decal
12 shall be affixed to the lower right-hand corner of the windshield
13 of the vehicle. The decal shall be of a design prescribed by the
14 Tax Commissioner, shall be of a different color for each year of
15 the five-year period for which decals may be issued pursuant to
16 this section and shall meet any other specification reasonably
17 required by the Tax Commissioner.

18 (e) Every person owning or operating a vehicle using liquefied
19 natural gas, compressed natural gas or natural gas hydrocarbon and
20 derivative, except as otherwise provided in subsections (a) and (b)
21 of this section, shall make an annual application for and obtain a
22 decal to be issued on a yearly basis by the Tax Commissioner. The
23 application shall be in a form prescribed by the Tax Commissioner
24 that is available at the website of the State Tax Department.

25 (f) Every person who makes application for and receives a
26 decal under this section shall, at the time of making the

1 application, remit to the Tax Commission the total amount of the
2 tax due.

3 (g) Upon receipt of satisfactory proof by the Tax Commissioner
4 that it has become necessary to replace the windshield of the
5 vehicle for which the decal was issued, another decal shall be
6 issued by the Tax Commissioner as a replacement for a fee of \$5.

7 (h) When any vehicle using liquefied natural gas, compressed
8 natural gas or natural gas hydrocarbon and derivative as motor fuel
9 and displaying a current decal as provided in this section, is sold
10 or ownership is otherwise transferred, the decal shall remain with
11 the vehicle sold or otherwise transferred, unless the equipment
12 installed to enable the vehicle to use liquefied petroleum gas,
13 liquefied natural gas, compressed natural gas or natural gas
14 hydrocarbon and derivative has been removed from the vehicle before
15 the sale or other transfer of ownership.

16 (I) When the equipment that allows the vehicle to use
17 liquefied natural gas, compressed natural gas or natural gas
18 hydrocarbon and derivative as motor fuel is removed before the sale
19 or other transfer of the vehicle, the seller or other transferor of
20 the vehicle shall also remove the decal required of vehicles using
21 liquefied natural gas, compressed natural gas or natural gas
22 hydrocarbon and derivative as motor fuel. The removed decal, a
23 receipt from the Tax Commissioner showing that the fee required has
24 been paid for the current year, and the payment of a \$5 fee for
25 duplicate decal shall entitle the seller or other transferor to
26 make application for and obtain a new decal to be used for the

1 remainder of the year on any vehicle of the seller or other
2 transferor using liquefied natural gas, compressed natural gas or
3 natural gas hydrocarbon and derivative as motor fuel in accordance
4 with the provisions of this section.

5 (j) All funds derived from the taxes, fees and money penalties
6 imposed by this section shall be deposited in the State Road Fund.

7 (k) When any person fails to obtain a current decal within
8 thirty days of the date the decal is required as provided in this
9 section, there shall become due and payable a money penalty of \$50
10 in addition to the required fee. Collections of this money penalty
11 shall be deposited in the State Road Fund.

12 (l) This section shall expire and be of no further effect on
13 July 1, 2017, unless this date is extended by the Legislature.