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FOR

**Senate Bill No. 624**

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

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[Originating in the Committee on Finance;  
reported February 27, 2012.]

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A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-6D-10; and to amend said code by adding thereto a new section, designated §11-14C-5a, all relating generally to use of alternative-fuel motor vehicles; permitting transfer of tax credits for purchase of alternative-fuel vehicles, conversion to an alternative-fuel vehicle or construction of alternative-fuel vehicle infrastruc-

ture; providing method of collection of motor fuel excise taxes when liquified natural gas, compressed natural gas or natural gas hydrocarbon and derivative are used as motor fuel; and specifying expiration date.

*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 section, designated §11-6D-10; and that said code be amended by adding thereto a new section, designated §11-14C-5a, all to read as follows:

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

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

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

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

16 (2) Transferors and sellers shall apply to the tax depart-  
17 ment for approval of any transfer, sale or assignment of the  
18 tax credit. Any amount of the tax credit that has been  
19 transferred or assigned is subject to the same limitations and  
20 conditions that apply to transferor's or seller's entitlement,  
21 use and application of the credit. The application for sale,  
22 transfer or assignment of the credit shall include the trans-  
23 feror's tax credit balance prior to transfer, if any, the name  
24 of the seller, the transferor's remaining tax credit balance  
25 after transfer, if any, all tax identification numbers for both  
26 transferor, if any, and transferee, the date of transfer, the  
27 amount transferred and any other information required by  
28 the Tax Commissioner. The Tax Commissioner shall either  
29 approve or disapprove the application for sale, transfer or  
30 assignment of the tax credit within thirty days of receipt of  
31 the application. In the event the Tax Commissioner denies  
32 the application for sale, transfer or assignment of the tax  
33 credit, the Tax Commissioner shall provide the reason for

34 such denial: *Provided*, That the total amount of tax credits  
35 authorized to be transferred by governmental entities and  
36 nonprofit entities in any one calendar year in the aggregate  
37 shall not exceed \$1 million.

38 (3) The Tax Commissioner may not approve the transfer  
39 or assignment of a tax credit to a taxpayer if the seller or  
40 transferor has an outstanding tax obligation with the state  
41 of West Virginia.

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

45 (c) For purposes of this section, any proceeds received by  
46 the transferor for its assignment or sale of the tax credits  
47 allowed pursuant to this section are exempt from the West  
48 Virginia consumers sales and service tax and use tax and  
49 from the corporation net income tax and personal income  
50 tax.

51 (d) The purpose of this section is to authorize any entity  
52 to take and transfer tax credits provided in this article, and  
53 specifically allow government entities and nonprofit entities  
54 to utilize certain tax credits issued pursuant to this article.

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

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

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

14 (b) Beginning July 1, 2012, in lieu of the motor fuel excise  
15 taxes imposed by section five or this article, there is hereby  
16 levied a flat tax on liquified natural gas (LNG), compressed  
17 natural gas (CNG) and natural gas hydrocarbon and deriva-

18 tive used as motor fuel in a vehicle equal to \$150 per year for  
19 each motor vehicle exceeding one (1) ton in capacity, using  
20 liquified natural gas (LNG), compressed natural gas (CNG)  
21 or natural gas hydrocarbon and derivative as motor fuel,  
22 except that no tax shall be levied on any vehicle owned or  
23 leased by an entity that is exempt from tax pursuant to  
24 subdivisions (1) through (6), subsection (c), section nine of  
25 this article.

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

30 (d) Payment of the taxes levied by this section shall be  
31 evidenced by a decal issued by the Tax Commissioner, which  
32 decal shall be affixed to the lower right-hand corner of the  
33 windshield of the vehicle. The decal shall be of a design  
34 prescribed by the Tax Commissioner, shall be of a different  
35 color for each year of the five-year period for which decals  
36 may be issued pursuant to this section and shall meet any  
37 other specification reasonably required by the Tax Commis-  
38 sioner.

39 (e) Every person owning or operating a vehicle using  
40 liquefied natural gas, compressed natural gas or natural gas  
41 hydrocarbon and derivative, except as otherwise provided in  
42 subsections (a) and (b) of this section, shall make an annual  
43 application for and obtain a decal to be issued on a yearly  
44 basis by the Tax Commissioner. The application shall be in  
45 a form prescribed by the Tax Commissioner that is available  
46 at the website of the State Tax Department.

47 (f) Every person who makes application for and receives  
48 a decal under this section shall, at the time of making the  
49 application, remit to the Tax Commission the total amount  
50 of the tax due.

51 (g) Upon receipt of satisfactory proof by the Tax Com-  
52 missioner that it has become necessary to replace the  
53 windshield of the vehicle for which the decal was issued,  
54 another decal shall be issued by the Tax Commissioner as a  
55 replacement for a fee of \$5.

56 (h) When any vehicle using liquefied natural gas, com-  
57 pressed natural gas or natural gas hydrocarbon and deriva-  
58 tive as motor fuel and displaying a current decal as provided  
59 in this section, is sold or ownership is otherwise transferred,  
60 the decal shall remain with the vehicle sold or otherwise

61 transferred, unless the equipment installed to enable the  
62 vehicle to use liquefied petroleum gas, liquefied natural gas,  
63 compressed natural gas or natural gas hydrocarbon and  
64 derivative has been removed from the vehicle before the sale  
65 or other transfer of ownership.

66 (i) When the equipment that allows the vehicle to use  
67 liquefied natural gas, compressed natural gas or natural gas  
68 hydrocarbon and derivative as motor fuel is removed before  
69 the sale or other transfer of the vehicle, the seller or other  
70 transferor of the vehicle shall also remove the decal required  
71 of vehicles using liquefied natural gas, compressed natural  
72 gas or natural gas hydrocarbon and derivative as motor fuel.  
73 The removed decal, a receipt from the Tax Commissioner  
74 showing that the fee required has been paid for the current  
75 year, and the payment of a \$5 fee for duplicate decal shall  
76 entitle the seller or other transferor to make application for  
77 and obtain a new decal to be used for the remainder of the  
78 year on any vehicle of the seller or other transferor using  
79 liquefied natural gas, compressed natural gas or natural gas  
80 hydrocarbon and derivative as motor fuel in accordance with  
81 the provisions of this section.



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

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

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