

H. B. 2443

(By Delegate Hunt)

[Introduced February 14, 2013; referred to the
Committee on Roads and Transportation then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-15-3c of the Code of West Virginia,
1931, as amended; and to amend and reenact §17A-3-4 of said
code, all relating to exempting antique cars from taxation and
fees.

Be it enacted by the Legislature of West Virginia:

That §11-15-3c of the Code of West Virginia, 1931, as amended,
be amended and reenacted; and that §17A-3-4 of said code be amended
and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

**§11-15-3c. Imposition of consumers sales tax on motor vehicle
sales; rate of tax; use of motor vehicle purchased
out of state; definition of sale; definition of
motor vehicle; exemptions; collection of tax by**

1 **Division of Motor Vehicles; dedication of tax to**
2 **highways; legislative and emergency rules.**

3 (a) Notwithstanding any provision of this article or article
4 fifteen-a of this chapter to the contrary, beginning on July 1,
5 2008, all motor vehicle sales to West Virginia residents shall be
6 subject to the consumers sales tax imposed by this article.

7 (b) *Rate of tax on motor vehicles.* -- Notwithstanding any
8 provision of this article or article fifteen-a of this chapter to
9 the contrary, the rate of tax on the sale and use of a motor
10 vehicle shall be five percent of its sale price, as defined in
11 section two, article fifteen-b of this chapter: *Provided*, That so
12 much of the sale price or consideration as is represented by the
13 exchange of other vehicles on which the tax imposed by this section
14 or section four, article three, chapter seventeen-a of this code
15 has been paid by the purchaser shall be deducted from the total
16 actual sale price paid for the motor vehicle, whether the motor
17 vehicle be new or used.

18 (c) *Motor vehicles purchased out of state.* -- Notwithstanding
19 this article or article fifteen-a to the contrary, the tax imposed
20 by this section shall apply to all motor vehicles, used as defined
21 by section one, article fifteen-a of this chapter, within this
22 state, regardless of whether the vehicle was purchased in a state
23 other than West Virginia.

1 (d) *Definition of sale.* -- Notwithstanding any provision of
2 this article or article fifteen-a of this chapter to the contrary,
3 for purposes of this section, "sale", "sales" or "selling" means
4 any transfer or lease of the possession or ownership of a motor
5 vehicle for consideration, including isolated transactions between
6 individuals not being made in the ordinary course of repeated and
7 successive business and also including casual and occasional sales
8 between individuals not conducted in a repeated manner or in the
9 ordinary course of repetitive and successive transactions.

10 (e) *Definition of motor vehicle.* -- For purposes of this
11 section, "motor vehicle" means every propellable device in or upon
12 which any person or property is or may be transported or drawn upon
13 a highway including, but not limited to: Automobiles; buses; motor
14 homes; motorcycles; motorboats; all-terrain vehicles; snowmobiles;
15 low-speed vehicles; trucks, truck tractors and road tractors having
16 a weight of less than fifty-five thousand pounds; trailers,
17 semitrailers, full trailers, pole trailers and converter gear
18 having a gross weight of less than two thousand pounds; and
19 motorboat trailers, fold-down camping trailers, traveling trailers,
20 house trailers and motor homes; except that the term "motor
21 vehicle" does not include: Modular homes, manufactured homes,
22 mobile homes, similar nonmotive propelled vehicles susceptible of
23 being moved upon the highways but primarily designed for habitation
24 and occupancy; devices operated regularly for the transportation of

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

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

24 (1) The tax imposed by this section does not apply to any

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

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

1 limited liability company.

2 (3) The tax imposed by this section does not apply where motor
3 vehicle has been acquired by a senior citizen service organization
4 which is exempt from the payment of income taxes under the United
5 States Internal Revenue Code, Title 26 U.S.C. §501(c)(3) and which
6 is recognized to be a bona fide senior citizen service organization
7 by the Bureau of Senior Services existing under the provisions of
8 article five, chapter sixteen of this code.

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

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

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

22 (7) The tax imposed by this section does not apply to motor
23 vehicles acquired by an urban mass transit authority, as defined in
24 article twenty-seven, chapter eight of this code, or a nonprofit

1 entity exempt from federal and state income tax under the Internal
2 Revenue Code for the purpose of providing mass transportation to
3 the public at large or designed for the transportation of persons
4 and being operated for the transportation of persons in the public
5 interest.

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

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

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

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

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

22 (9) On and after January 1, 2009, the tax imposed by this
23 section does not apply to Class B trucks, truck tractors and road
24 tractors registered at a gross weight of fifty-five thousand pounds

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

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

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

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

18 (i) *Legislative rules; emergency rules.* -- Notwithstanding any
19 provision of this article, article fifteen-a and article ten of
20 this chapter to the contrary, the Commissioner of Motor Vehicles
21 shall promulgate legislative rules explaining and implementing this
22 section, which rules shall be promulgated in accordance with the
23 provisions of article three, chapter twenty-nine-a of this code and
24 should include a minimum taxable value and set forth instances when

1 a vehicle is to be taxed at fair market value rather than its
2 purchase price. The authority to promulgate rules includes
3 authority to amend or repeal those rules. If proposed legislative
4 rules for this section are filed in the State Register before
5 June 15, 2008, those rules may be promulgated as emergency
6 legislative rules as provided in article three, chapter twenty-
7 nine-a of this code.

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

20 (k) Antique Cars. -- Notwithstanding any provision of this
21 code to the contrary, there is no sales tax on the sale or purchase
22 of antique motor vehicles. "Antique motor vehicle" means any motor
23 vehicle which is more than twenty-five years old and is owned
24 solely as a collector's item.

1 **CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION,**
2 **CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.**

3 **ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF**
4 **CERTIFICATES OF TITLE.**

5 **§17A-3-4. Application for certificate of title; fees; abolishing**
6 **privilege tax; prohibition of issuance of**
7 **certificate of title without compliance with**
8 **consumer sales and service tax provisions;**
9 **exceptions.**

10 (a) Certificates of registration of any vehicle or
11 registration plates for the vehicle, whether original issues or
12 duplicates, may not be issued or furnished by the Division of Motor
13 Vehicles or any other officer or agent charged with the duty,
14 unless the applicant already has received, or at the same time
15 makes application for and is granted, an official certificate of
16 title of the vehicle in either an electronic or paper format. The
17 application shall be upon a blank form to be furnished by the
18 Division of Motor Vehicles and shall contain a full description of
19 the vehicle, which description shall contain a manufacturer's
20 serial or identification number or other number as determined by
21 the commissioner and any distinguishing marks, together with a
22 statement of the applicant's title and of any liens or encumbrances
23 upon the vehicle, the names and addresses of the holders of the

1 liens and any other information as the Division of Motor Vehicles
2 may require. The application shall be signed and sworn to by the
3 applicant. A duly certified copy of the division's electronic
4 record of a certificate of title is admissible in any civil,
5 criminal or administrative proceeding in this state as evidence of
6 ownership.

7 (b) A tax is imposed upon the privilege of effecting the
8 certification of title of each vehicle in the amount equal to five
9 percent of the value of the motor vehicle at the time of the
10 certification, to be assessed as follows:

11 (1) If the vehicle is new, the actual purchase price or
12 consideration to the purchaser of the vehicle is the value of the
13 vehicle. If the vehicle is a used or secondhand vehicle, the
14 present market value at time of transfer or purchase is the value
15 of the vehicle for the purposes of this section: *Provided*, That so
16 much of the purchase price or consideration as is represented by
17 the exchange of other vehicles on which the tax imposed by this
18 section has been paid by the purchaser shall be deducted from the
19 total actual price or consideration paid for the vehicle, whether
20 the vehicle be new or secondhand. If the vehicle is acquired
21 through gift or by any manner whatsoever, unless specifically
22 exempted in this section, the present market value of the vehicle
23 at the time of the gift or transfer is the value of the vehicle for
24 the purposes of this section.

1 (2) No certificate of title for any vehicle may be issued to
2 any applicant unless the applicant has paid to the Division of
3 Motor Vehicles the tax imposed by this section which is five
4 percent of the true and actual value of the vehicle whether the
5 vehicle is acquired through purchase, by gift or by any other
6 manner whatsoever, except gifts between husband and wife or between
7 parents and children: *Provided*, That the husband or wife, or the
8 parents or children, previously have paid the tax on the vehicles
9 transferred to the State of West Virginia.

10 (3) The Division of Motor Vehicles may issue a certificate of
11 registration and title to an applicant if the applicant provides
12 sufficient proof to the Division of Motor Vehicles that the
13 applicant has paid the taxes and fees required by this section to
14 a motor vehicle dealership that has gone out of business or has
15 filed bankruptcy proceedings in the United States bankruptcy court
16 and the taxes and fees so required to be paid by the applicant have
17 not been sent to the division by the motor vehicle dealership or
18 have been impounded due to the bankruptcy proceedings: *Provided*,
19 That the applicant makes an affidavit of the same and assigns all
20 rights to claims for money the applicant may have against the motor
21 vehicle dealership to the Division of Motor Vehicles.

22 (4) The Division of Motor Vehicles shall issue a certificate
23 of registration and title to an applicant without payment of the
24 tax imposed by this section if the applicant is a corporation,

1 partnership or limited liability company transferring the vehicle
2 to another corporation, partnership or limited liability company
3 when the entities involved in the transfer are members of the same
4 controlled group and the transferring entity has previously paid
5 the tax on the vehicle transferred. For the purposes of this
6 section, control means ownership, directly or indirectly, of stock
7 or equity interests possessing fifty percent or more of the total
8 combined voting power of all classes of the stock of a corporation
9 or equity interests of a partnership or limited liability company
10 entitled to vote or ownership, directly or indirectly, of stock or
11 equity interests possessing fifty percent or more of the value of
12 the corporation, partnership or limited liability company.

13 (5) The tax imposed by this section does not apply to vehicles
14 to be registered as Class H vehicles or Class M vehicles, as
15 defined in section one, article ten of this chapter, which are used
16 or to be used in interstate commerce. Nor does the tax imposed by
17 this section apply to the titling of Class B vehicles registered at
18 a gross weight of fifty-five thousand pounds or more, or to the
19 titling of Class C semitrailers, full trailers, pole trailers and
20 converter gear: *Provided*, That if an owner of a vehicle has
21 previously titled the vehicle at a declared gross weight of fifty-
22 five thousand pounds or more and the title was issued without the
23 payment of the tax imposed by this section, then before the owner
24 may obtain registration for the vehicle at a gross weight less than

1 fifty-five thousand pounds, the owner shall surrender to the
2 commissioner the exempted registration, the exempted certificate of
3 title and pay the tax imposed by this section based upon the
4 current market value of the vehicle: *Provided, however,* That
5 notwithstanding the provisions of section nine, article fifteen,
6 chapter eleven of this code, the exemption from tax under this
7 section for Class B vehicles in excess of fifty-five thousand
8 pounds and Class C semitrailers, full trailers, pole trailers and
9 converter gear does not subject the sale or purchase of the
10 vehicles to the consumers sales and service tax.

11 (6) The tax imposed by this section does not apply to titling
12 of vehicles leased by residents of West Virginia. A tax is imposed
13 upon the monthly payments for the lease of any motor vehicle leased
14 by a resident of West Virginia, which tax is equal to five percent
15 of the amount of the monthly payment, applied to each payment, and
16 continuing for the entire term of the initial lease period. The
17 tax shall be remitted to the Division of Motor Vehicles on a
18 monthly basis by the lessor of the vehicle.

19 (7) The tax imposed by this section does not apply to titling
20 of vehicles by a registered dealer of this state for resale only,
21 nor does the tax imposed by this section apply to titling of
22 vehicles by this state or any political subdivision thereof, or by
23 any volunteer fire department or duly chartered rescue or ambulance
24 squad organized and incorporated under the laws of this state as a

1 nonprofit corporation for protection of life or property. The
2 total amount of revenue collected by reason of this tax shall be
3 paid into the State Road Fund and expended by the Commissioner of
4 Highways for matching federal funds allocated for West Virginia.
5 In addition to the tax, there is a charge of \$5 for each original
6 certificate of title or duplicate certificate of title so issued:
7 *Provided*, That this state or any political subdivision of this
8 state or any volunteer fire department or duly chartered rescue
9 squad is exempt from payment of the charge.

10 (8) The certificate is good for the life of the vehicle, so
11 long as the vehicle is owned or held by the original holder of the
12 certificate and need not be renewed annually, or any other time,
13 except as provided in this section.

14 (9) If, by will or direct inheritance, a person becomes the
15 owner of a motor vehicle and the tax imposed by this section
16 previously has been paid to the Division of Motor Vehicles on that
17 vehicle, he or she is not required to pay the tax.

18 (10) A person who has paid the tax imposed by this section is
19 not required to pay the tax a second time for the same motor
20 vehicle, but is required to pay a charge of \$5 for the certificate
21 of retitling of that motor vehicle, except that the tax shall be paid
22 by the person when the title to the vehicle has been transferred
23 either in this or another state from the person to another person
24 and transferred back to the person.

1 (11) The tax imposed by this section does not apply to any
2 passenger vehicle offered for rent in the normal course of business
3 by a daily passenger rental car business as licensed under the
4 provisions of article six-d of this chapter. For purposes of this
5 section, a daily passenger car means a Class A motor vehicle having
6 a gross weight of eight thousand pounds or less and is registered
7 in this state or any other state. In lieu of the tax imposed by
8 this section, there is hereby imposed a tax of not less than \$1 nor
9 more than \$1.50 for each day or part of the rental period. The
10 commissioner shall propose an emergency rule in accordance with the
11 provisions of article three, chapter twenty-nine-a of this code to
12 establish this tax.

13 (12) The tax imposed by this article does not apply to the
14 titling of any vehicle purchased by a senior citizen service
15 organization which is exempt from the payment of income taxes under
16 the United States Internal Revenue Code, Title 26 U.S.C. §501(c)(3)
17 and which is recognized to be a bona fide senior citizen service
18 organization by the senior services bureau existing under the
19 provisions of article five, chapter sixteen of this code.

20 (13) The tax imposed by this section does not apply to the
21 titling of any vehicle operated by an urban mass transit authority
22 as defined in article twenty-seven, chapter eight of this code or
23 a nonprofit entity exempt from federal and state income tax under
24 the Internal Revenue Code and whose purpose is to provide mass

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

4 (14) The tax imposed by this section does not apply to the
5 transfer of a title to 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 may require of
10 having titled the vehicle in the applicant's previous state of
11 residence;

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

15 (D) Presents an affidavit, completed by the assessor of the
16 applicant's county of residence, establishing that the vehicle has
17 been properly reported and is on record in the office of the
18 assessor as personal property; and

19 (E) Makes application to the division for a title and
20 registration, and pays all other fees required by this chapter
21 within thirty days of establishing residency in this state as
22 prescribed in subsection (a), section one-a of this article:
23 *Provided*, That a period of amnesty of three months be established
24 by the commissioner during the calendar year 2007, during which

1 time any resident of this state, having titled his or her vehicle
2 in a previous state of residence, may pay without penalty any fees
3 required by this chapter and transfer the title of his or her
4 vehicle in accordance with the provisions of this section.

5 (c) Notwithstanding any provisions of this code to the
6 contrary, the owners of trailers, semitrailers, recreational
7 vehicles and other vehicles not subject to the certificate of title
8 tax prior to the enactment of this chapter are subject to the
9 privilege tax imposed by this section: *Provided*, That the
10 certification of title of any recreational vehicle owned by the
11 applicant on June 30, 1989, is not subject to the tax imposed by
12 this section: *Provided, however*, That mobile homes, manufactured
13 homes, modular homes and similar nonmotive propelled vehicles,
14 except recreational vehicles and house trailers, susceptible of
15 being moved upon the highways but primarily designed for habitation
16 and occupancy, rather than for transporting persons or property, or
17 any vehicle operated on a nonprofit basis and used exclusively for
18 the transportation of mentally retarded or physically handicapped
19 children when the application for certificate of registration for
20 the vehicle is accompanied by an affidavit stating that the vehicle
21 will be operated on a nonprofit basis and used exclusively for the
22 transportation of mentally retarded and physically handicapped
23 children, are not subject to the tax imposed by this section, but
24 are taxable under the provisions of articles fifteen and fifteen-a,

1 chapter eleven of this code.

2 (d) Beginning on July 1, 2008, the tax imposed under this
3 subsection (b) of this section is abolished and after that date no
4 certificate of title for any motor vehicle may be issued to any
5 applicant unless the applicant provides sufficient proof to the
6 Division of Motor Vehicles that the applicant has paid the fees
7 required by this article and the tax imposed under section three-b,
8 article fifteen, chapter eleven of this code.

9 (e) Any person making any affidavit required under any
10 provision of this section who knowingly swears falsely, or any
11 person who counsels, advises, aids or abets another in the
12 commission of false swearing, or any person, while acting as an
13 agent of the Division of Motor Vehicles, issues a vehicle
14 registration without first collecting the fees and taxes or fails
15 to perform any other duty required by this chapter or chapter
16 eleven of this code to be performed before a vehicle registration
17 is issued is, on the first offense, guilty of a misdemeanor and,
18 upon conviction thereof, shall be fined not more than \$500 or be
19 confined in jail for a period not to exceed six months or, in the
20 discretion of the court, both fined and confined. For a second or
21 any subsequent conviction within five years, that person is guilty
22 of a felony and, upon conviction thereof, shall be fined not more
23 than \$5,000 or be imprisoned in a state correctional facility for
24 not less than one year nor more than five years or, in the

1 discretion of the court, both fined and imprisoned.

2 (f) Notwithstanding any other provisions of this section, any
3 person in the military stationed outside West Virginia or his or
4 her dependents who possess a motor vehicle with valid registration
5 are exempt from the provisions of this article for a period of nine
6 months from the date the person returns to this state or the date
7 his or her dependent returns to this state, whichever is later.

8 (g) No person may transfer, purchase or sell a factory-built
9 home without a certificate of title issued by the commissioner in
10 accordance with the provisions of this article:

11 (1) Any person who fails to provide a certificate of title
12 upon the transfer, purchase or sale of a factory-built home is
13 guilty of a misdemeanor and, upon conviction thereof, shall for the
14 first offense be fined not less than \$100 nor more than \$1,000, or
15 be confined in jail for not more than one year, or both fined and
16 confined. For each subsequent offense, the fine may be increased
17 to not more than \$2,000, with confinement in jail not more than one
18 year, or both fined and confined.

19 (2) Failure of the seller to transfer a certificate of title
20 upon sale or transfer of the factory-built home gives rise to a
21 cause of action, upon prosecution thereof, and allows for the
22 recovery of damages, costs and reasonable attorney fees.

23 (3) This subsection does not apply to a mobile or manufactured
24 home for which a certificate of title has been canceled pursuant to

1 section twelve-b of this article.

2 (h) Notwithstanding any other provision to the contrary,
3 whenever reference is made to the application for or issuance of
4 any title or the recordation or release of any lien, it includes
5 the application, transmission, recordation, transfer of ownership
6 and storage of information in an electronic format.

7 (i) Notwithstanding any other provision contained in this
8 section, nothing herein shall be considered to include modular
9 homes as defined in subsection (I), section two, article fifteen,
10 chapter thirty-seven of this code and built to the state Building
11 Code as established by legislative rules promulgated by the State
12 Fire Commission pursuant to section five-b, article three, chapter
13 twenty-nine of this code.

14 (j) Notwithstanding any provision of this code to the
15 contrary, there is no tax or fee imposed against the owner of
16 antique motor vehicles. Certificates of title and other permits
17 required under this section are granted without the imposition of
18 a fee or tax on the owner. "Antique motor vehicle" means any motor
19 vehicle which is more than twenty-five years old and is owned
20 solely as a collector's item.

NOTE: The purpose of this bill is to exempt antique cars from
taxation and fees.

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