

SB 363

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996

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SECRETARY OF STATE

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COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 363

(By Senator ROSS, ET AL)

PASSED MARCH 7, 1996  
In Effect NINETY DAYS FROM Passage

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OFFICE OF WEST VIRGINIA  
SENATE CLERK

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FOR

**Senate Bill No. 363**

(SENATORS ROSS, HELMICK, SHARPE AND  
SCHOONOVER, *original sponsors*)

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[Passed March 7, 1996; in effect ninety days from passage.]

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AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article six-d, relating to establishing an alternative-fuel motor vehicle tax credit which may be applied against personal net income tax and corporation net income tax; setting forth legislative findings; specifying definitions; specifying the mode and manner in which the credit may be taken; and specifying an effective date.

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

That chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article six-d, to read as follows:

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

**§11-6D-1. Legislative findings and purpose.**

1 Consistent with the public policy as stated in section  
2 one, article two-d, chapter twenty-four of this code, the  
3 Legislature hereby finds that the use of alternative fuels  
4 is in the public interest and promotes the general welfare  
5 of the people of this state insofar as it addresses serious  
6 concerns for our environment and our state's and na-  
7 tion's dependence on foreign oil as a source of energy.  
8 The Legislature further finds that this state has an  
9 abundant supply of alternative fuels and an extensive  
10 supply network and that, by encouraging the use of  
11 alternatively-fueled motor vehicles, the state will be  
12 reducing its dependence on foreign oil and attempting to  
13 improve its air quality.

14 However, because the cost of motor vehicles which  
15 utilize alternative-fuel technologies remains high in  
16 relation to motor vehicles that employ more traditional  
17 technologies, citizens of this state who might otherwise  
18 choose an alternatively-fueled motor vehicle are forced  
19 by economic necessity to continue using motor vehicles  
20 that are fueled by more conventional means. Therefore,  
21 in order to encourage the use of alternatively-fueled  
22 motor vehicles and possibly reduce unnecessary pollu-  
23 tion of our environment and reduce our dependence on  
24 foreign sources of energy, there is hereby created an  
25 alternative-fuel motor vehicles tax credit.

**§11-6D-2. Definitions.**

1 As used in this article, the following terms have the  
2 meanings ascribed to them in this section:

3 (a) "Alternative fuel" includes:

4 (1) Compressed natural gas;

5 (2) Liquified natural gas;

6 (3) Liquified petroleum gas;

7 (4) Methanol;

8 (5) Ethanol;

9 (6) Fuel mixtures that contain eighty-five percent or  
10 more by volume, when combined with gasoline or other  
11 fuels, of the following:

12 (A) Methanol;

13 (B) Ethanol; or

14 (C) Other alcohols;

15 (7) Coal-derived liquid fuels; and

16 (8) Electricity, including electricity from solar energy.

17 (b) "Alternative-fuel motor vehicle" means a motor  
18 vehicle that as a new or retrofitted or converted fuel:

19 (1) Operates solely on one alternative fuel;

20 (2) Is capable of operating on one or more alternative  
21 fuels, singly or in combination; or

22 (3) Is capable of operating on an alternative fuel and is  
23 also capable of operating on gasoline or diesel fuel.

**§11-6D-3. Credit allowed for alternative-fuel motor vehicles;  
application against personal income tax or corporate  
net income tax; effective date.**

1 The tax credit provided in this article may be applied  
2 against the tax liability of a taxpayer imposed by the  
3 provisions of either article twenty-one or article twenty-  
4 four of this chapter, but in no case may more than one  
5 credit be granted for the same alternative-fuel motor  
6 vehicle as defined in subdivision (b), section two of this  
7 article. This credit shall be available for those tax years  
8 beginning after the thirtieth day of June, one thousand  
9 nine hundred ninety-seven.

**§11-6D-4. Eligibility for credit.**

1 A taxpayer is eligible to claim the credit against tax  
2 provided in this article if he or she:

3 (a) Converts a motor vehicle that is presently registered

4 in West Virginia to operate:

5 (1) Exclusively on an alternative fuel as defined in  
6 subdivision (a), section two of this article; or

7 (2) In a dual fuel mode, as defined in paragraph (6),  
8 subdivision (a), section two of this article; or

9 (b) Purchases from an original equipment manufac-  
10 turer or an after-market conversion facility a new  
11 dedicated or dually fueled alternative-fuel motor vehicle  
12 for which the taxpayer then obtains a valid West Vir-  
13 ginia registration.

14 (c) The credit provided in this article is not available to  
15 and may not be claimed by any taxpayer under any  
16 obligation pursuant to any federal or state law, policy or  
17 regulation to convert to the use of alternative fuels for  
18 any motor vehicle.

**§11-6D-5. Amount of credit.**

1 (a) The total amount of any credit allowed under this  
2 article is limited by and subject to the provisions set  
3 forth in this subsection and subsections (b), (c) and (d) of  
4 this section and may not exceed: (1) In the case of a  
5 motor vehicle conversions or retrofitting, the actual cost  
6 of converting from a traditionally-fueled motor vehicle  
7 to an alternatively-fueled motor vehicle; or (2) in the  
8 case of a new purchase, the incremental difference in  
9 cost between an alternative-fuel motor vehicle and a  
10 comparably equipped motor vehicle that employs  
11 traditional fuel technology.

12 (b) The maximum total credit allowed for an  
13 alternative-fuel motor vehicle is:

14 (1) For a vehicle with a gross vehicle weight of not  
15 more than ten thousand pounds, three thousand seven  
16 hundred fifty dollars;

17 (2) For a vehicle with a gross vehicle weight of more  
18 than ten thousand pounds up to twenty-six thousand  
19 pounds, nine thousand two hundred fifty dollars;

20 (3) For a truck or van with a gross vehicle weight of  
21 more than twenty-six thousand pounds, fifty thousand  
22 dollars; and

23 (4) For a bus capable of seating at least twenty adults,  
24 fifty thousand dollars.

25 (c) Subject to the limitations set forth in subsection (a)  
26 of this section, a taxpayer who is otherwise entitled to a  
27 credit against tax who claims the credit provided for in  
28 this article on the basis of any alternative-fuel motor  
29 vehicle that operates exclusively on electricity is entitled  
30 to an additional credit of ten percent of the credit which  
31 is otherwise allowed under subsection (b) of this section.

32 (d) The maximum incremental credit allowed per year  
33 is one third of the credit attributable to five vehicles  
34 with the cumulative credit over a three-year period not  
35 to exceed one third of the credit attributable to fifteen  
36 vehicles.

**§11-6D-6. Credit to be apportioned over three-year period.**

1 The credit against tax for any alternative-fuel motor  
2 vehicle provided for in this article may be taken by a  
3 taxpayer claiming the credit only in three equal incre-  
4 ments over a three-consecutive tax-year period, so that  
5 in any tax year in which a taxpayer is entitled to the  
6 credit, only one third of the total credit allowed for a  
7 certain alternative-fuel motor vehicle under section five  
8 may be taken.

**§11-6D-7. Duration of availability of credit.**

1 The tax credit provided in this article shall expire by  
2 operation of law ten years after the effective date of this  
3 article: *Provided*, That any eligible taxpayer who makes  
4 a valid claim for the credit before that expiration is  
5 entitled to claim and receive the remaining one-third  
6 increment or increments of the total credit allowed  
7 under section five of this article for the tax year or years  
8 ensuing after the expiration of this article until the total  
9 amount of credit allowed has been exhausted.

**§11-6D-8. Commissioner to design forms and schedules;  
promulgation of rules.**

1 (a) The tax commissioner shall design and provide to  
2 the public simplified forms and schedules to implement  
3 and effectuate the provisions of this article.

4 (b) The tax commissioner is authorized to promulgate  
5 rules for the administration of this article consistent  
6 with its provisions and in accordance with article three,  
7 chapter twenty-nine-a of this code.

8 (c) Within one year following the expiration of the  
9 credit established in this article the state tax commis-  
10 sioner shall provide a written report to the Legislature  
11 setting forth the utilization of the credit, the benefit of  
12 the credit and the overall cost of the credit.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Frank Schonacher*  
.....  
Chairman Senate Committee

*Rudy Seaunt*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Harrell Edwards*  
.....  
Clerk of the Senate

*Gregory M. Baum*  
.....  
Clerk of the House of Delegates

*Carl Ky Tomblin*  
.....  
President of the Senate

*Carl Albert*  
.....  
Speaker House of Delegates

The within *is approved* this the *1st* day of *April*, 1996.

*Winston Capen*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/21/46

Time 9:46 am