

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990



ENROLLED

Com. Sub. for
HOUSE BILL No. 4602

(By Mr. Speaker, Mr. Chambers, + Del. Horvath)



Passed March 10, 1990

In Effect May 1, 1990 ~~Page~~

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 4602

(By MR. SPEAKER, MR. CHAMBERS, AND DELEGATE HOUVOURAS)

[Passed March 10, 1990; in effect May 1, 1990.]

AN ACT to amend and reenact section four, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section three, article ten of said chapter, all relating to the certification of title tax and the registration fee for certain classes of vehicles; exempting certain classes of vehicles over fifty-five thousand pounds from the certification of title tax; and providing a new registration fee for vehicles over fifty-five thousand pounds.

Be it enacted by the Legislature of West Virginia:

That section four, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section three, article ten of said chapter be amended and reenacted, all to read as follows:

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

**§17A-3-4. Application for certificate of title; tax for
privilege of certification of title; penalty for
false swearing.**

- 1 (a) Certificates of registration of any vehicle or
- 2 registration plates therefor, whether original issues or

3 duplicates, shall not be issued or furnished by the
4 department of motor vehicles or any other officer
5 charged with the duty, unless the applicant therefor
6 already has received, or at the same time makes
7 application for and is granted, an official certificate of
8 title of the vehicle. The application shall be upon a blank
9 form to be furnished by the department of motor
10 vehicles and shall contain a full description of the
11 vehicle, which description shall contain a manufactur-
12 er's serial or identification number or other number as
13 determined by the commissioner and any distinguishing
14 marks, together with a statement of the applicant's title
15 and of any liens or encumbrances upon the vehicle, the
16 names and addresses of the holders of the liens and any
17 other information as the department of motor vehicles
18 may require. The application shall be signed and sworn
19 to by the applicant.

20 (b) A tax is hereby imposed upon the privilege of
21 effecting the certification of title of each vehicle in the
22 amount equal to five percent of the value of said motor
23 vehicle at the time of such certification. If the vehicle
24 is new, the actual purchase price or consideration to the
25 purchaser thereof is the value of the vehicle; if the
26 vehicle is a used or secondhand vehicle, the present
27 market value at time of transfer or purchase is the value
28 thereof for the purposes of this section: *Provided*, That
29 so much of the purchase price or consideration as is
30 represented by the exchange of other vehicles on which
31 the tax herein imposed has been paid by the purchaser
32 shall be deducted from the total actual price or
33 consideration paid for the vehicle, whether the same be
34 new or secondhand; if the vehicle is acquired through
35 gift, or by any manner whatsoever, unless specifically
36 exempted in this section, the present market value of the
37 vehicle at the time of the gift or transfer is the value
38 thereof for the purposes of this section. No certificate of
39 title for any vehicle shall be issued to any applicant
40 unless the applicant has paid to the department of motor
41 vehicles the tax imposed by this section which is five
42 percent of the true and actual value of said vehicle
43 whether the vehicle is acquired through purchase, by
44 gift or by any other manner whatsoever except gifts

45 between husband and wife or between parents and
46 children: *Provided, however*, That the husband or wife,
47 or the parents or children previously have paid the tax
48 on the vehicles so transferred to the state of West
49 Virginia: *Provided further*, That the department of
50 motor vehicles may issue a certificate of registration and
51 title to an applicant if the applicant provides sufficient
52 proof to the department of motor vehicles that the
53 applicant has paid the taxes and fees required by this
54 section to a motor vehicle dealership that has filed
55 bankruptcy proceedings in the United States bank-
56 ruptcy court and the taxes and fees so required to be
57 paid by the applicant have been impounded due to the
58 bankruptcy proceedings: *And provided further*, That the
59 applicant makes an affidavit of the same and assigns all
60 rights to claims for money the applicant may have
61 against the motor vehicle dealership to the department
62 of motor vehicles.

63 The tax imposed by this section does not apply to
64 vehicles to be registered as Class H vehicles, or Class
65 S vehicles, as defined in section one, article ten of this
66 chapter, which are used or to be used in interstate
67 commerce. Nor does the tax imposed by this section
68 apply to the titling of Class B, Class K or Class E
69 vehicles registered at a gross weight of fifty-five
70 thousand pounds or more, or to the titling of Class C or
71 Class L semitrailers, full trailers, pole trailers, and
72 converter gear: *Provided*, That, if an owner of a vehicle
73 has previously titled the vehicle at a declared gross
74 weight of fifty-five thousand pounds or more and title
75 was issued without the payment of the tax imposed by
76 this section, then before the owner may obtain registra-
77 tion for the vehicle at a gross weight less than fifty-five
78 thousand pounds, the owner must surrender to the
79 commissioner the exempted registration, the exempted
80 certificate of title, and pay the tax imposed by this
81 section based upon the current market value of the
82 vehicle: *Provided, however*, That notwithstanding the
83 provisions of section nine, article fifteen, chapter eleven
84 of this code, the exemption from tax under this section
85 for Class B, Class K or Class E vehicles in excess of fifty-
86 five thousand pounds and Class C or Class L semitrail-

87 ers, full trailers, pole trailers and convertor gear shall
88 not subject the sale or purchase of said vehicles to the
89 consumer sales tax. The tax imposed by this section does
90 not apply to titling of vehicles by a registered dealer of
91 this state for resale only, nor does the tax imposed by
92 this section apply to titling of vehicles by this state or
93 any political subdivision thereof, or by any volunteer fire
94 department or duly chartered rescue or ambulance
95 squad organized and incorporated under the laws of the
96 state of West Virginia as a nonprofit corporation for
97 protection of life or property. The total amount of
98 revenue collected by reason of this tax shall be paid into
99 the state road fund and expended by the commissioner
100 of highways for matching federal funds allocated for
101 West Virginia. In addition to the tax, there shall be a
102 charge of five dollars for each original certificate of title
103 or duplicate certificate of title so issued: *Provided,*
104 *further,* That this state or any political subdivision
105 thereof, or any volunteer fire department, or duly
106 chartered rescue squad, is exempt from payment of such
107 charge.

108 Such certificate is good for the life of the vehicle, so
109 long as the same is owned or held by the original holder
110 of such certificate, and need not be renewed annually,
111 or any other time, except as herein provided.

112 If, by will or direct inheritance, a person becomes the
113 owner of a motor vehicle and the tax herein imposed
114 previously has been paid, to the department of motor
115 vehicles, on that vehicle, he or she is not required to pay
116 such tax.

117 A person who has paid the tax imposed by this section
118 is not required to pay the tax a second time for the same
119 motor vehicle, but is required to pay a charge of five
120 dollars for the certificate of retitling of that motor vehicle,
121 except that the tax shall be paid by the person when the
122 title to the vehicle has been transferred either in this
123 or another state from such person to another person and
124 transferred back to such person.

125 (c) Notwithstanding any provisions of this code to the
126 contrary, the owners of trailers, semitrailers, recrea-

127 tional vehicles and other vehicles not subject to the
128 certificate of title tax prior to the enactment of this
129 chapter are subject to the privilege tax imposed by this
130 section: *Provided*, That the certification of title of any
131 recreational vehicle owned by the applicant on the
132 thirtieth day of June, one thousand nine hundred eighty-
133 nine, is not subject to the tax imposed by this section:
134 *Provided, however*, That mobile homes, house trailers,
135 modular homes and similar nonmotive propelled vehi-
136 cles, except recreational vehicles, susceptible of being
137 moved upon the highways but primarily designed for
138 habitation and occupancy, rather than for transporting
139 persons or property, or any vehicle operated on a
140 nonprofit basis and used exclusively for the transporta-
141 tion of mentally retarded or physically handicapped
142 children when the application for certificate of registra-
143 tion for such vehicle is accompanied by an affidavit
144 stating that such vehicle will be operated on a nonprofit
145 basis and used exclusively for the transportation of
146 mentally retarded and physically handicapped children,
147 are not subject to the tax imposed by this section, but
148 are taxable under the provisions of articles fifteen and
149 fifteen-a, chapter eleven of this code.

150 (d) Any person making any affidavit required under
151 any provision of this section, who knowingly swears
152 falsely, or any person who counsels, advises, aids or
153 abets another in the commission of false swearing, is on
154 the first offense guilty of a misdemeanor, and, upon
155 conviction thereof, shall be fined not more than five
156 hundred dollars or be imprisoned in the county jail for
157 a period not to exceed six months, or, in the discretion
158 of the court, both fined and imprisoned. For a second
159 or any subsequent conviction within five years any such
160 person is guilty of a felony, and, upon conviction thereof,
161 shall be fined not more than five thousand dollars or be
162 imprisoned in the penitentiary for not less than one year
163 nor more than five years or, in the discretion of the
164 court, fined and imprisoned.

ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.

**§17A-10-3. Registration fees for vehicles equipped with
pneumatic tires.**

1 The following registration fees for the classes indi-
2 cated shall be paid annually to the department for the
3 registration of vehicles subject to registration hereunder
4 when equipped with pneumatic tires:

5 Class A. The registration fee for all motor vehicles of
6 this class is as follows:

7 (1) For motor vehicles of a weight of three thousand
8 pounds or less—twenty-five dollars.

9 (2) For motor vehicles of a weight of three thousand
10 and one pounds to four thousand pounds—thirty dollars.

11 (3) For motor vehicles of a weight in excess of four
12 thousand pounds—thirty-six dollars.

13 (4) For motor vehicles designed as trucks with
14 declared gross weights of four thousand pounds or less—
15 twenty-five dollars.

16 (5) For motor vehicles designed as trucks with
17 declared gross weights of four thousand and one pounds
18 to eight thousand pounds—thirty dollars.

19 For the purpose of determining the weight, the actual
20 weight of the vehicle shall be taken: *Provided*, That for
21 vehicles owned by churches, or by trustees for churches,
22 which vehicles are regularly used for transporting
23 parishioners to and from church services, no license fee
24 shall be charged, but notwithstanding such exemption,
25 the certificate of registration and license plates shall be
26 obtained the same as other cards and plates under this
27 article.

28 Class B, Class E and Class K. The registration fee for
29 all motor vehicles of these three classes is as follows:

30 (1) For declared gross weights of eight thousand and
31 one pounds to sixteen thousand pounds—twenty-eight
32 dollars plus five dollars for each one thousand pounds
33 or fraction thereof that the gross weight of such vehicle
34 or combination of vehicles exceeds eight thousand
35 pounds.

36 (2) For declared gross weights greater than sixteen
37 thousand pounds, but less than fifty-five thousand

38 pounds—seventy-eight dollars and fifty cents plus ten
39 dollars for each one thousand pounds or fraction thereof
40 that the gross weight of such vehicle or combination of
41 vehicles exceeds sixteen thousand pounds.

42 (3) For declared gross weights of fifty-five thousand
43 pounds or more—seven hundred thirty-seven dollars and
44 fifty cents plus fifteen dollars and seventy-five cents for
45 each one thousand pounds or fraction thereof that the
46 gross weight of such vehicle or combination of vehicles
47 exceeds fifty-five thousand pounds.

48 Class C and Class L. The registration fee for all
49 vehicles of these two classes is seventeen dollars and
50 fifty cents except that semitrailers, full trailers, pole
51 trailers, and convertor gear registered as Class C and
52 Class L may be registered for a period of ten years at
53 a fee of one hundred dollars.

54 Class G. The registration fee for each motorcycle is
55 eight dollars.

56 Class H. The registration fee for all vehicles for this
57 class operating entirely within the state is five dollars;
58 and for vehicles engaged in interstate transportation of
59 persons, the registration fee is the amount of the fees
60 provided by this section for Class B, Class E and Class
61 K reduced by the amount that the mileage of such
62 vehicles operated in states other than West Virginia
63 bears to the total mileage operated by such vehicles in
64 all states under a formula to be established by the
65 department of motor vehicles.

66 Class J. The registration fee for all motor vehicles of
67 this class is eighty-five dollars. Ambulances and hearses
68 used exclusively as such are exempt from the above
69 special fees.

70 Class R. The registration fee for all vehicles of this
71 class is twelve dollars.

72 Class S. The registration fee for all vehicles of this
73 class is seventeen dollars and fifty cents.

74 Class T. The registration fee for all vehicles of this
75 class is eight dollars.

76 Class U. The registration fee for all vehicles of this
77 class is fifty-seven dollars and fifty cents.

78 Class Farm Truck. The registration fee for all motor
79 vehicles of this class is as follows: (1) For farm trucks
80 of declared gross weights of eight thousand and one
81 pounds to sixteen thousand pounds—thirty dollars; (2)
82 for farm trucks of declared gross weights of sixteen
83 thousand and one pounds to twenty-two thousand
84 pounds—sixty dollars; (3) for farm trucks of declared
85 gross weights of twenty-two thousand and one pounds
86 to twenty-eight thousand pounds—ninety dollars; (4) for
87 farm trucks of declared gross weights of twenty-eight
88 thousand and one pounds to thirty-four thousand
89 pounds—one hundred fifteen dollars; (5) for farm trucks
90 of declared gross weights of thirty-four thousand and
91 one pounds to forty-four thousand pounds—one hundred
92 sixty dollars; (6) for farm trucks of declared gross
93 weights of forty-four thousand and one pounds to fifty-
94 four thousand pounds—two hundred five dollars; and (7)
95 for farm trucks of declared gross weights of fifty-four
96 thousand and one pounds to sixty-four thousand
97 pounds—two hundred fifty dollars.

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

Frederick T. Parker
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originating in the House.

Takes effect May 1, 1990.

Harold E. Atkins
.....
Clerk of the Senate

Donald G. Kopp
.....
Clerk of the House of Delegates

Kees Sundette
.....
President of the Senate

B. Stoll
.....
Speaker of the House of Delegates

The within *is approved* this the *30th*
day of *March* 1990.

W. Patton Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/29/40

Time 12:00 pm

RECEIVED

1890 MAR 30 PM 5:04

OFFICE OF THE GOVERNOR
STATE OF TEXAS