

SB 357

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999



ENROLLED

SENATE BILL NO. 357

(By Senator ROSS, ET AL)



PASSED MARCH 13 1999
In Effect NINETY DAYS FROM Passage

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SECRETARY OF STATE

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Senate Bill No. 357

(BY SENATORS ROSS, SHARPE, SNYDER, SPROUSE,
BALL AND KESSLER)

[Passed March 13, 1999; in effect ninety days from passage.]

AN ACT to amend and reenact sections four, ten and twelve, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section seventeen-b; to amend and reenact section seven, article four of said chapter; to amend and reenact sections one, four, seven, eight and ten, article four-a of said chapter; to further amend said article by adding thereto a new section, designated section two-a; and to amend article six of said chapter by adding thereto a new section, designated section one-b, all relating to removing the privilege tax on vehicles sold to automobile rental businesses and imposing a daily tax of twenty-five cents to be paid by the rental businesses; allowing the use of electronic transmission and recording of vehicle registration, title and lien information among dealers, banks and the division of motor vehicles; providing that a copy of the electronic record of a

certificate of title or lien is admissible as evidence; authorizing dealers to issue vehicle registration documents and plates after collecting all fees and taxes; setting fees for recordation of lien releases; providing criminal penalties for an agent of the division of motor vehicles who issues vehicle registration without first performing certain duties; providing for issuance of liens, titles and registration in electronic format; authorizing service providers to administer electronic exchange of information, documents and fees and to provide forms and materials; providing for revocation of authority; authorizing the motor vehicle dealer advisory board to establish fees charged by motor vehicle dealers; requiring bond; and providing that when a vehicle is subject to an electronic lien, the certificate of title shall be considered held by the lien-holder for certain purposes.

Be it enacted by the Legislature of West Virginia:

That sections four, ten and twelve, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended by adding thereto a new section, designated section seventeen-b; that section seven, article four of said chapter be amended and reenacted; that sections one, four, seven, eight and ten, article four-a of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section two-a; and that article six of said chapter be amended by adding thereto a new section, designated section one-b, 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 registra-
- 2 tion plates for the vehicle, whether original issues or
- 3 duplicates, may not be issued or furnished by the division
- 4 of motor vehicles or any other officer or agent charged
- 5 with the duty, unless the applicant therefor already has
- 6 received, or at the same time makes application for and is
- 7 granted, an official certificate of title of the vehicle in
- 8 either an electronic or paper format. The application shall
- 9 be upon a blank form to be furnished by the division of

10 motor vehicles and shall contain a full description of the
11 vehicle, which description shall contain a manufacturer's
12 serial or identification number or other number as deter-
13 mined by the commissioner and any distinguishing marks,
14 together with a statement of the applicant's title and of
15 any liens or encumbrances upon the vehicle, the names and
16 addresses of the holders of the liens and any other infor-
17 mation as the division of motor vehicles may require. The
18 application shall be signed and sworn to by the applicant.
19 A duly certified copy of the division's electronic record of
20 a certificate of title shall be admissible in any civil,
21 criminal or administrative proceeding in this state as
22 evidence of ownership.

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

27 (1) If the vehicle is new, the actual purchase price or
28 consideration to the purchaser of the vehicle is the value
29 of the vehicle. If the vehicle is a used or secondhand
30 vehicle, the present market value at time of transfer or
31 purchase is the value of the vehicle for the purposes of this
32 section: *Provided*, That so much of the purchase price or
33 consideration as is represented by the exchange of other
34 vehicles on which the tax imposed by this section has been
35 paid by the purchaser shall be deducted from the total
36 actual price or consideration paid for the vehicle, whether
37 the vehicle be new or secondhand. If the vehicle is ac-
38 quired through gift, or by any manner whatsoever, unless
39 specifically exempted in this section, the present market
40 value of the vehicle at the time of the gift or transfer is the
41 value of the vehicle for the purposes of this section.

42 (2) No certificate of title for any vehicle may be issued to
43 any applicant unless the applicant has paid to the division
44 of motor vehicles the tax imposed by this section which is
45 five percent of the true and actual value of the vehicle
46 whether the vehicle is acquired through purchase, by gift
47 or by any other manner whatsoever, except gifts between
48 husband and wife or between parents and children:
49 *Provided*, That the husband or wife, or the parents or

50 children previously have paid the tax on the vehicles
51 transferred to the state of West Virginia.

52 (3) The division of motor vehicles may issue a certificate
53 of registration and title to an applicant if the applicant
54 provides sufficient proof to the division of motor vehicles
55 that the applicant has paid the taxes and fees required by
56 this section to a motor vehicle dealership that has gone out
57 of business or has filed bankruptcy proceedings in the
58 United States bankruptcy court and the taxes and fees so
59 required to be paid by the applicant have not been sent to
60 the division by the motor vehicle dealership or have been
61 impounded due to the bankruptcy proceedings: *Provided*,
62 That the applicant makes an affidavit of the same and
63 assigns all rights to claims for money the applicant may
64 have against the motor vehicle dealership to the division
65 of motor vehicles.

66 (4) The division of motor vehicles shall issue a certificate
67 of registration and title to an applicant without payment
68 of the tax imposed by this section if the applicant is a
69 corporation, partnership or limited liability company
70 transferring the vehicle to another corporation, partner-
71 ship or limited liability company when the entities in-
72 volved in the transfer are members of the same controlled
73 group and the transferring entity has previously paid the
74 tax on the vehicle transferred. For the purposes of this
75 section, control means ownership, directly or indirectly, of
76 stock or equity interests possessing fifty percent or more
77 of the total combined voting power of all classes of the
78 stock of a corporation or equity interests of a partnership
79 or limited liability company entitled to vote or ownership,
80 directly or indirectly, of stock or equity interests possess-
81 ing fifty percent or more of the value of the corporation,
82 partnership or limited liability company.

83 (5) The tax imposed by this section does not apply to
84 vehicles to be registered as Class H vehicles or Class M
85 vehicles, as defined in section one, article ten of this
86 chapter, which are used or to be used in interstate com-
87 merce. Nor does the tax imposed by this section apply to
88 the titling of Class B vehicles registered at a gross weight
89 of fifty-five thousand pounds or more, or to the titling of

90 Class C semitrailers, full trailers, pole trailers and con-
91 verter gear: *Provided*, That if an owner of a vehicle has
92 previously titled the vehicle at a declared gross weight of
93 fifty-five thousand pounds or more and the title was issued
94 without the payment of the tax imposed by this section,
95 then before the owner may obtain registration for the
96 vehicle at a gross weight less than fifty-five thousand
97 pounds, the owner shall surrender to the commissioner the
98 exempted registration, the exempted certificate of title,
99 and pay the tax imposed by this section based upon the
100 current market value of the vehicle: *Provided, however*,
101 That notwithstanding the provisions of section nine,
102 article fifteen, chapter eleven of this code, the exemption
103 from tax under this section for Class B vehicles in excess
104 of fifty-five thousand pounds and Class C semitrailers, full
105 trailers, pole trailers and converter gear does not subject
106 the sale or purchase of the vehicles to the consumers sales
107 tax.

108 (6) The tax imposed by this section does not apply to
109 titling of vehicles leased by residents of West Virginia. A
110 tax is imposed upon the monthly payments for the lease of
111 any motor vehicle leased by a resident of West Virginia,
112 which tax is equal to five percent of the amount of the
113 monthly payment, applied to each payment, and continu-
114 ing for the entire term of the initial lease period. The tax
115 shall be remitted to the division of motor vehicles on a
116 monthly basis by the lessor of the vehicle.

117 (7) The tax imposed by this section does not apply to
118 titling of vehicles by a registered dealer of this state for
119 resale only, nor does the tax imposed by this section apply
120 to titling of vehicles by this state or any political subdivi-
121 sion thereof, or by any volunteer fire department or duly
122 chartered rescue or ambulance squad organized and
123 incorporated under the laws of the state of West Virginia
124 as a nonprofit corporation for protection of life or prop-
125 erty. The total amount of revenue collected by reason of
126 this tax shall be paid into the state road fund and ex-
127 pended by the commissioner of highways for matching
128 federal funds allocated for West Virginia. In addition to
129 the tax, there is a charge of five dollars for each original
130 certificate of title or duplicate certificate of title so issued:

131 *Provided*, That this state or any political subdivision of
132 this state, or any volunteer fire department, or duly
133 chartered rescue squad is exempt from payment of the
134 charge.

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

139 (9) If, by will or direct inheritance, a person becomes the
140 owner of a motor vehicle and the tax imposed by this
141 section previously has been paid, to the division of motor
142 vehicles, on that vehicle, he or she is not required to pay
143 the tax.

144 (10) A person who has paid the tax imposed by this
145 section is not required to pay the tax a second time for the
146 same motor vehicle, but is required to pay a charge of five
147 dollars for the certificate of retitle of that motor vehicle,
148 except that the tax shall be paid by the person when the
149 title to the vehicle has been transferred either in this or
150 another state from the person to another person and
151 transferred back to the person.

152 (11) The tax imposed by this section does not apply to
153 titling of vehicles rented daily or monthly by West Virginia
154 businesses. A tax is imposed upon the daily payments for
155 the rental of any motor vehicle rented in West Virginia,
156 which tax is twenty-five cents for each day of the period
157 of rental of the motor vehicle. The tax shall be remitted to
158 the division of motor vehicles on a monthly basis by the
159 lessor of the vehicle.

160 (c) Notwithstanding any provisions of this code to the
161 contrary, the owners of trailers, semitrailers, recreational
162 vehicles and other vehicles not subject to the certificate of
163 title tax prior to the enactment of this chapter are subject
164 to the privilege tax imposed by this section: *Provided*,
165 That the certification of title of any recreational vehicle
166 owned by the applicant on the thirtieth day of June, one
167 thousand nine hundred eighty-nine, is not subject to the
168 tax imposed by this section: *Provided, however*, That
169 mobile homes, manufactured homes, modular homes and

170 similar nonmotive propelled vehicles, except recreational
171 vehicles and house trailers, susceptible of being moved
172 upon the highways but primarily designed for habitation
173 and occupancy, rather than for transporting persons or
174 property, or any vehicle operated on a nonprofit basis and
175 used exclusively for the transportation of mentally re-
176 tardated or physically handicapped children when the
177 application for certificate of registration for the vehicle is
178 accompanied by an affidavit stating that the vehicle will
179 be operated on a nonprofit basis and used exclusively for
180 the transportation of mentally retarded and physically
181 handicapped children, are not subject to the tax imposed
182 by this section, but are taxable under the provisions of
183 articles fifteen and fifteen-a, chapter eleven of this code.

184 (d) Any person making any affidavit required under any
185 provision of this section, who knowingly swears falsely, or
186 any person who counsels, advises, aids or abets another in
187 the commission of false swearing, or any person, while
188 acting as an agent of the division of motor vehicles issues
189 a vehicle registration without first collecting the fees and
190 taxes or fails to perform any other duty required by this
191 chapter to be performed before a vehicle registration is
192 issued is on the first offense guilty of a misdemeanor and,
193 upon conviction thereof, shall be fined not more than five
194 hundred dollars or be confined in the county or regional
195 jail for a period not to exceed six months or, in the discre-
196 tion of the court, both fined and confined. For a second or
197 any subsequent conviction within five years, that person
198 is guilty of a felony and, upon conviction thereof, shall be
199 fined not more than five thousand dollars or be imprisoned
200 in the penitentiary for not less than one year nor more
201 than five years or, in the discretion of the court, fined and
202 imprisoned.

203 (e) Notwithstanding any other provisions of this section,
204 any person in the military stationed outside West Virginia,
205 or his or her dependents who possess a motor vehicle with
206 valid registration, are exempt from the provisions of this
207 article for a period of nine months from the date the
208 person returns to this state or the date his or her depend-
209 ent returns to this state, whichever is later.

210 (f) No person may transfer, purchase or sell a fac-
211 tory-built home without a certificate of title issued by the
212 commissioner in accordance with the provisions of this
213 article:

214 (1) Any person who fails to provide a certificate of title
215 upon the transfer, purchase or sale of a factory-built home
216 is guilty of a misdemeanor and, upon conviction thereof,
217 shall for the first offense be fined not less than one hun-
218 dred dollars nor more than one thousand dollars, or be
219 confined in the county or regional jail for not more than
220 one year or, both fined and confined. For each subsequent
221 offense, the fine may be increased to not more than two
222 thousand dollars, with confinement in the county or
223 regional jail not more than one year or, both fined and
224 confined.

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

230 (g) Notwithstanding any other provision to the contrary,
231 whenever reference is made to the application for or
232 issuance of any title or the recordation or release of any
233 lien, it shall be understood to include the application,
234 transmission, recordation, transfer of ownership and
235 storage of information in an electronic format.

**§17A-3-10. Division to issue registration card; duplicate to
county assessor.**

1 The division upon registering a vehicle, or an agent of
2 the division upon collecting the required fees and taxes in
3 accordance with the provisions of section one-b, article six
4 of this chapter, shall issue a registration card to be deliv-
5 ered to the owner and containing thereon the date issued,
6 the name and address of the owner, the registration
7 number assigned to the vehicle and such description of the
8 vehicle as determined by the commissioner. The division
9 shall send a duplicate of said registration card to the
10 assessor of the county in which the owner resides, or in

11 cases of nonresidents of the state, to the assessor of the
12 county wherein the vehicle is located.

**§17A-3-12. Commissioner to issue certificate of title; signatures
on certificate; certificate of title to be delivered
to owner or lienor.**

1 (a) The commissioner, if satisfied that the applicant for
2 a certificate of title is the owner of such vehicle, or other-
3 wise entitled to have the same registered in the applicant's
4 name, shall issue an appropriate certificate of title in
5 either an electronic or paper format. The certificate of
6 title in an electronic format shall contain all of the infor-
7 mation required by this section.

8 (b) The certificate of title shall contain upon the face
9 thereof the date issued, the name and address of the
10 owner, the description of the vehicle as determined by the
11 commissioner, and a statement of the owner's title and of
12 all liens and encumbrances upon the vehicle therein
13 described and whether possession is held by the owner
14 under a lease, contract of conditional sale or other like
15 agreement, and shall bear thereon the seal of the division.

16 (c) The certificate of title shall contain upon the reverse
17 side a space for the signature of the owner and the owner
18 shall write his or her name with pen and ink in the space
19 upon receipt of the certificate. The certificate shall also
20 contain upon the reverse side forms for assignment of title
21 or interest and warranty thereof by the owner with space
22 for notation of liens and encumbrances upon the vehicle at
23 the time of a transfer.

24 (d) The commissioner, upon issuing a certificate of title,
25 shall deliver same in either an electronic or paper format
26 to the person who holds legal title to the vehicle described
27 on the face of said certificate: *Provided*, That when a
28 certificate of title is issued showing upon the face thereof
29 a lien or encumbrance of liens or encumbrances, the
30 certificate of title shall be delivered to the lienholder in
31 either an electronic or paper format in order of priority.
32 It shall be unlawful and constitute a misdemeanor for a
33 lienor who holds a certificate of title, as hereinabove in
34 this section provided, to refuse or fail to surrender the

35 certificate of title to the person legally entitled thereto
36 within ten days after the lien or encumbrance or liens or
37 encumbrances shown on the face thereof shall have been
38 paid and satisfied.

**§17A-3-17b. Application for registration; certain motor vehicle
dealers authorized to issue certificates of
registration for certain vehicles.**

1 The division may authorize a motor vehicle dealer as
2 defined and licensed in accordance with the provisions of
3 article six of this chapter to issue or transfer motor vehicle
4 registration plates upon the sale of any motor vehicle in
5 compliance with the provisions of section one-b, article six
6 of this chapter. The division shall provide to an autho-
7 rized motor vehicle dealer the necessary supplies, registra-
8 tion plates, registration decals and instructions necessary
9 for the issuance and transfer of motor vehicle registra-
10 tions. The division may authorize a service provider to
11 distribute the necessary supplies.

ARTICLE 4. TRANSFERS OF TITLE OR INTEREST.

§17A-4-7. Release by lienholder to owner.

1 A person holding a lien or encumbrance as shown upon
2 a certificate of title upon a vehicle may release the lien or
3 encumbrance or assign his or her interest to the owner
4 without affecting the registration of the vehicle. The
5 division, upon receiving an electronic acknowledgment of
6 a release of lien from the lienholder or a certificate of title
7 upon which a lienholder has released or assigned his or her
8 interest to the owner or upon receipt of a certificate of title
9 not so endorsed but accompanied by a legal release from
10 a lienholder of this interest in or to a vehicle, shall issue a
11 new certificate of title as upon an original application.
12 The division, upon receiving an electronic acknowledg-
13 ment of a release of lien from the lienholder shall issue,
14 without further application or fee a new certificate of title
15 free of any lien or encumbrance to the vehicle owner to the
16 address shown in the division's records.

**ARTICLE 4A. LIENS AND ENCUMBRANCES ON VEHICLES TO BE SHOWN
ON CERTIFICATE OF TITLE, NOTICE TO CREDITORS
AND PURCHASERS.**

§17A-4A-1. Certificate to show liens or encumbrances.

1 The division upon receiving an application for a certifi-
2 cate of title to a vehicle, trailer, semitrailer, pole trailer,
3 factory-built home or recreational vehicle for which a
4 certificate of title is required under article three of this
5 chapter, all of which are hereinafter in this article referred
6 to as vehicles, showing liens or encumbrances upon the
7 vehicle, shall, upon issuing to the owner thereof a certifi-
8 cate of title therefor, show upon the face of the certificate
9 of title all liens or encumbrances disclosed by the applica-
10 tion. All liens or encumbrances shall be shown in the
11 order of their priority being according to the information
12 contained in the application. When an application shows
13 liens and encumbrances, the information as evidence of the
14 lien in connection therewith as the division may consider
15 necessary shall also be furnished. The information shall
16 include the name and address of the lienholder, the nature
17 and kind of the lien, the date thereof and the amount
18 thereby secured. However, only the name and address of
19 the lienholder will be endorsed on the title certificate.
20 Upon issuing the certificate, the division shall thereupon
21 send or deliver it by either paper or electronic means to the
22 holder of the first lien.

§17A-4A-2a. Electronic transfer of liens.

1 (a) Notwithstanding any requirement in this chapter that
2 a lien on a motor vehicle shall be noted on the face of the
3 certificate of title, if there are one or more liens or encum-
4 brance on a vehicle, trailer, semitrailer, pole trailer,
5 factory-built home or recreational vehicle, the division
6 may electronically transmit the lien to the first lienholder
7 and notify the first lienholder of any additional liens.
8 Subsequent lien satisfactions may be electronically
9 transmitted to the division and shall include the name and
10 address of the person satisfying the lien and any other
11 information required by the division as a condition of
12 participating in the electronic lien information exchange
13 program.

14 (b) The division may enter into agreements with a service
15 provider or providers to administer the electronic ex-
16 change of lien information between dealers, financial

17 institutions and the division. For the purposes of this
18 section the term financial institutions shall have the same
19 meaning as defined in section ten-b, article six of this
20 chapter.

21 (c) When electronic transmission of liens and lien
22 satisfaction is used, a hard copy certificate of title need not
23 be issued until the last lien is satisfied and a clear hard
24 copy certificate of title is issued to the owner of the
25 vehicle. When a vehicle is subject to an electronic lien, the
26 certificate of title for the vehicle shall be considered to be
27 physically held by the lien holder for the purpose of
28 compliance with state and federal odometer disclosure
29 requirements and for any other requirement of this code.
30 A duly certified copy of the division's electronic record of
31 the lien shall be admissible in any civil, criminal or
32 administrative proceeding in this state as evidence of the
33 existence of the lien.

34 (d) For the purposes of this chapter, whenever reference
35 is made by this code to the physical production of a
36 certificate of title as a paper document, or reference to the
37 completion of information related to recording a lien as a
38 paper document, the reference shall be understood to also
39 include the transmission and recordation of the informa-
40 tion in an electronic format.

**§17A-4A-4. Deferred purchase money lien or encumbrance may
be filed within sixty days after purchase; effective
date of lien; dealer to record lien; fees.**

1 (a) A deferred purchase money lien or encumbrance upon
2 any motor vehicle may be perfected by recording in either
3 electronic or paper format the name and address of the
4 lienholder upon the face of the certificate of title for the
5 motor vehicle. If an application for a certificate of title is
6 filed with the division of motor vehicles within sixty days
7 after the date of purchase of the motor vehicle, the effective
8 date of the lien or encumbrance shall be the date the
9 lien or encumbrance was created. If an application for a
10 certificate of title is not filed within the sixty-day period,
11 the lien shall be perfected from the date it was filed with
12 the division of motor vehicles.

13 (b) In all transactions involving a deferred purchase
14 money lien or encumbrance upon a motor vehicle, the
15 motor vehicle dealer shall collect and remit to the division
16 of motor vehicles the title, tax and registration fees
17 required under section four, article three of this chapter
18 and file and record with the division of motor vehicles any
19 lien created as a result of the transaction: *Provided*, That
20 a motor vehicle dealer may remit the title, tax and regis-
21 tration fees through any license service that is licensed by
22 the division of motor vehicles.

23 (c) No fee may be charged by a motor vehicle dealer for
24 its services required under this section except that fee
25 authorized by section one-b, article six of this chapter, or
26 subdivision (6), subsection (a), section one hundred nine,
27 article three, chapter forty-six-a of this code.

**§17A-4A-7. Release of lien or encumbrance shown on certificate
of title.**

1 An owner upon securing the release of any lien or
2 encumbrance upon a vehicle shown upon the certificate of
3 title issued therefor may exhibit the document evidencing
4 such release, signed by the person or persons making the
5 release and acknowledged before a notary public or
6 someone authorized by the laws of this state to take
7 acknowledgments of deeds, and this document together
8 with the certificate of title shall be returned to the divi-
9 sion; or the lienholder may release the lien by endorsing
10 across the lien in his or her favor on the face of the title or
11 closely adjacent thereto the following words or words of
12 similar effect or purport: "This lien, this day fully paid,
13 satisfied and released, this ____ day of _____,"
14 and duly signing and executing said endorsement and
15 acknowledging the same before a notary public and having
16 the notary public execute a certificate of the acknowledg-
17 ment in the form required for releasing deeds of trust in
18 this state; or when it is impossible to secure either such
19 release from the beneficiary or holder of the lien, the
20 owner may exhibit to the division whatever evidence may
21 be available showing that the debt secured has been
22 satisfied, together with a statement by the owner under
23 oath that the debt has been paid and the certificate of title

24 to such vehicle. The division when satisfied as to the
25 genuineness and regularity thereof shall issue to the owner
26 either a new certificate of title in proper form or an
27 endorsement or rider showing the release of the lien or
28 encumbrance which the division shall attach to the
29 outstanding certificate of title. For the purposes of this
30 article, the term release shall mean either an electronic or
31 paper transaction format.

**§17A-4A-8. Failure to execute release or to surrender certificate
when lien paid.**

1 It shall be unlawful and constitute a misdemeanor for a
2 lienor who holds a certificate of title either electronically
3 or in a paper format as provided in this article to refuse or
4 fail to execute a release as provided for in the next preced-
5 ing section, or to refuse or fail to surrender the certificate
6 of title to the person legally entitled thereto within fifteen
7 days after the lien shall have been paid and satisfied.

§17A-4A-10. Fee for recording and release of lien.

1 The division of motor vehicles is hereby authorized to
2 charge a fee of five dollars for the recording of any lien
3 either in an electronic or paper format created by the
4 voluntary act of the owner and endorsing it upon the title
5 certificate issued pursuant to this article, and the division
6 of motor vehicles is hereby authorized to charge a fee of
7 fifty cents for recordation of any release of a lien created
8 by the voluntary act of the owner: *Provided*, That no
9 charge shall be made for the endorsement and recordation
10 of liens or releases thereof as provided under section nine
11 of this article. No charge shall be made for the issuance of
12 a title to the owner of a vehicle upon the receipt of an
13 electronic release of the final lien.

**ARTICLE 6. LICENSING OF DEALERS, WRECKERS OR DISMANTLERS;
SPECIAL PLATES; TEMPORARY PLATES OR MARKERS.**

**§17A-6-1b. Dealers authorized to issue motor vehicle registra-
tion.**

1 (a) Notwithstanding any other provision in this chapter,
2 the division may allow a licensed motor vehicle dealer as
3 defined in section one of this article, authority to issue or

4 transfer motor vehicle registrations for vehicles sold by the
5 dealer. The authority to issue and transfer motor vehicle
6 registrations shall be contingent upon the dealer collecting
7 all fees and taxes required for the titling and registration
8 of vehicles, receiving proof of insurance as described in
9 subsection (e), section three, article three of this chapter,
10 and if applicable receiving the receipt showing full
11 payment of personal property taxes in accordance with
12 section three-a, article three of this chapter.

13 (b) Authorization to issue and transfer motor vehicle
14 registrations shall be contingent on the dealer completing
15 an application provided by the division and meeting all
16 criteria established by the division. The authority shall
17 also be contingent upon the dealer agreeing to participate
18 fully in a computerized system of electronic submission of
19 registration, titling and lien information and all fees and
20 taxes required under the provisions of this chapter, either
21 directly to the division or through an authorized service
22 provider selected and approved by the division. Any
23 transaction conducted under the provisions of this section
24 shall be conditional pending the determination by the
25 division that the application for title, registration and lien
26 recordation is complete, accurate and in accordance with
27 the provisions of this chapter.

28 (c) The authority to participate in the electronic trans-
29 mission of title, registration and lien information shall be
30 immediately revoked upon revocation or cancellation of a
31 dealer's license issued under the provisions of this chapter:
32 *Provided*, That the authority to issue and transfer motor
33 vehicle registrations may be revoked by the division
34 immediately and separately from any other action against
35 the dealer's license if the division determines that the
36 terms of the agreement or agreements authorizing issu-
37 ance, transfer or renewal of a vehicle registration or the
38 electronic transmission of information have been violated.

39 (d) A fee established by the motor vehicle dealer advisory
40 board may be charged by a motor vehicle dealer for its
41 services required under this section.

42 (e) Only motor vehicle registrations of a type specified by
43 the division may be issued, transferred or renewed by the
44 authorized dealer.

45 (f) All fees and taxes collected by an authorized dealer
46 under the provisions of this section shall be deposited in a
47 financial institution designated by the division or the
48 service provider in the manner prescribed by the division.

49 (g) The division may authorize a service provider to
50 supply an authorized dealer with the necessary forms,
51 supplies, registration plates and registration renewal
52 decals necessary to enable the authorized dealer to per-
53 form the duties and functions specified in this section.

54 (1) Any service provider authorized to perform services
55 under the provisions of this section shall post a bond of the
56 applicant in the penal sum of one million dollars, in the
57 form prescribed by the commissioner, conditioned that the
58 applicant will not in the conduct of business practice any
59 fraud which, or make any fraudulent representation
60 which, shall cause a financial loss to any dealer, financial
61 institution or agency, or the state of West Virginia, with a
62 corporate surety thereon authorized to do business in this
63 state, which bond shall be effective as of the date on which
64 the authorization to provide services commences.

65 (2) The service provider is solely responsible for the
66 inventory, tracking, safety and reconciliation of all
67 supplies, registration plates, registration decals or other
68 motor vehicle credentialing items in accordance with
69 procedures established by the division and subject to
70 audits by the division.

71 (3) The division may rescind without notice the authority
72 of a service provider to perform services when the division
73 has cause to believe that any state or federal law has been
74 violated or that the service provider is not adhering to the
75 terms and conditions of the authorization agreement.

76 (h) The service provider and the authorized dealer
77 assume full responsibility for the care, custody, control,
78 disclosure and use of any information provided by the
79 division in order to execute the duties and responsibilities

80 required by this section. Each service provider and each
81 authorized dealer agrees to insure that the disclosure of
82 information to it and its handling of information received
83 from the division complies with all federal and state
84 statutes and division directives governing the disclosure
85 and protection of such information.

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

Randy Schooner
.....
Chairman Senate Committee

Joe F. Smith
.....
Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

Russell Holmes
.....
Clerk of the Senate

Raymond E. Smith
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Jeff Hise
.....
Speaker House of Delegates

The within *approved* this the *3rd* ..
Day of *April* .., 1999

Jeff Anderson
.....
Governor

PRESENTED TO THE

GOVERNOR

Date.

4/1/99

Time

10:26 am