WEST VIRGINIA CODE CHAPTER 17a ARTICLE 2

WV Legislature

§17A-2-1. Department continued.

The department of the government of this state, known as the department of motor vehicles, heretofore created, shall be continued.

WV Legislature

§17A-2-2. Commissioner of motor vehicles -- Office created; term; to devote entire time to duties.

The department of motor vehicles shall be directed by an executive officer to be designated as the Commissioner of Motor Vehicles, who shall be appointed by the Governor, with the advice and consent of the Senate for a term of four years. The first appointment made hereunder shall be for a four-year term to commence on July 1, 1951. The commissioner shall devote his entire time to the duties of his office.

WV Legislature

§17A-2-3. Commissioner of motor vehicles -- Qualifications; not to hold other office.

The commissioner at the time of his appointment and qualification shall be a citizen of the United States and a resident of the State of West Virginia, shall have been a qualified voter in the state for a period of at least one year next preceding his appointment, and shall be not less than thirty years of age. No commissioner during his period of service as such shall hold any other office under the laws of this state or of the United States.

WV Legislature

§17A-2-4. Same -- Vacancy in office.

All vacancies in the office of the commissioner that occur while the Legislature is not in session shall be filled by appointment by the Governor, which appointment shall expire at the end of thirty days after the date of which the Legislature next convenes. Prior to the expiration of the thirty days the Governor shall transmit to the Senate for its approval an appointment for the unexpired portion of the regular term. Vacancies occurring during a session of the Legislature shall be filled as regular appointments before the end of the session and for the unexpired portion of the regular term.

WV Legislature

§17A-2-5. Commissioner of motor vehicles -- Oath and bond.

The commissioner before entering upon the duties of his office shall take and subscribe to the oath prescribed by the Constitution. He shall also execute a bond in the penalty of $25,000, conditioned according to law, and approved by the Governor. The cost of such bond shall be borne by the department as a part of the operating cost of the department. The bond and the oath shall be filed with the Secretary of State.

WV Legislature

§17A-2-6. Commissioner of motor vehicles -- Salary and expenses.

The commissioner shall receive a salary of $7,000F and the necessary traveling expenses incident to the performance of his duties. Requisition for traveling expenses shall be accompanied by a sworn and itemized statement which shall be filed with the Auditor and permanently preserved as a public record.

WV Legislature

§17A-2-7. Commissioner of motor vehicles -- Organization of department; assistants and employees.

The commissioner shall organize the department in such manner as he may deem necessary to properly segregate and conduct the work of the department. The commissioner shall employ such assistants and employees as may be necessary for the efficient operation of his department, who shall possess all of the qualifications which may from time to time be prescribed for such positions by the commissioner. The duties and salaries of such assistants and employees shall be fixed by the commissioner, who shall have authority to remove any such assistant or employee at his will and pleasure. The total compensation paid to assistants and employees shall not exceed in any one year the appropriation made by the Legislature for that purpose.

The commissioner shall require every employee who collects fees or handles funds or who has custody of equipment and supplies belonging to the state to take the Constitutional oath and give an official bond, with corporate surety, properly conditioned and in a sum to be fixed by the commissioner, which bond shall be approved by him and filed in the office of the Secretary of State. The cost of such bond shall be borne by the department as a part of the operating cost of the department.

WV Legislature

§17A-2-8. Commissioner of motor vehicles -- Office.

The commissioner shall maintain an office in one of the State Capitol buildings and in such other places in the state as he may deem necessary properly to carry out the powers and duties vested in the department. The commissioner shall keep his offices open at all reasonable times for the transaction of public business.

WV Legislature

§17A-2-9. Same -- Powers and duties; rules; seal.

(a) The commissioner shall observe, administer and enforce the provisions of this chapter and all laws the enforcement of which is now or hereafter vested in the department: Provided, That nothing in this chapter shall deprive the Public Service Commission of West Virginia of any of the duties or powers now vested in it with regard to the regulation of motor vehicle carriers.

(b) The commissioner may adopt and enforce any rules that are necessary to carry out the provisions of this chapter and any other laws the enforcement and administration of which are vested in the department.

(c) The commissioner may adopt an official seal for the use of the department.

(d) The commissioner shall, in instances where division personnel become aware of a possible or suspected violation of law where enforcement jurisdiction would be that of the West Virginia state police, communicate the violation to the State Police.

WV Legislature

§17A-2-10. Motor vehicles commissioner -- Reciprocal agreements with other states.

The motor vehicle commissioner in cooperation with the State Auditor, state road commissioner, the Public Service Commission and the Superintendent of State Police as appropriate may enter into reciprocal agreements as he may deem proper or expedient with the proper authorities of other states, jurisdictions or nations, regulating the licensing of drivers and the use, on the roads and highways of this state, of trucks, automobiles and any other vehicles owned and duly licensed in other states, jurisdictions or nations. The commissioner may enter into reciprocal agreements under which the registration of vehicles owned in this state, and the licenses of drivers residing in this state shall be recognized by other states, jurisdictions or other nations.

WV Legislature

§17A-2-10a. Same -- Authorizing the entry of this state intoreciprocal proportional registration agreements; payment of taxes; issuance of registration plates or markers; promulgation of rules; interagency cooperation; requirement that all registrants pay tax; intermittent interstate commerce and promulgation of rules; proportional registration agreement prevails.

(a) The Commissioner of Motor Vehicles is hereby authorized and empowered to enter into reciprocal agreements on behalf of this state with any jurisdiction which permits or requires the licensing of motor vehicles in interstate or combined interstate and intrastate commerce and the payment of taxes, registration, licensing or other fees fixed by the motor vehicle commissioner, pursuant to the execution of this article on an apportionment basis commensurate with and determined by the miles traveled on public roads and highways in that jurisdiction, as compared with the miles traveled on public roads and highways in other jurisdictions or on any other equitable basis of apportionment, and if that jurisdiction exempts motor vehicles registered in other jurisdictions under that apportionment basis from the requirements of full payment of its own registration, license or other fixed fees, the commissioner, by agreement may adopt the exemption as to those motor vehicles, whether owned by residents or nonresidents of this state and regardless of where the vehicles are registered.

(b) The agreements under any terms, conditions or restrictions as the commissioner considers proper may provide that owners of motor vehicles operated in interstate or combined interstate and intrastate commerce in this state shall be permitted to pay registration, license or other fees fixed on an apportionment basis, commensurate with and determined by the miles traveled on public roads and highways in this state as compared with the miles traveled on public roads and highways in other jurisdictions or any other equitable basis of apportionment. The agreements shall not authorize or be construed as authorizing any motor vehicle so registered to be operated without complying with the provisions of chapter eleven and chapter twenty-four-a of this code.

(c) Pursuant to the provisions of this section, the commissioner is expressly authorized and empowered to enter into and become a member of the international registration plan or other designation that may from time to time be given to the reciprocal plan.

(d) The commissioner shall prescribe the substance, form, color and context of any registration plate or marker issued under the provisions of this section, each of which shall be visually distinguishable from other registration plates or markers produced by the Division of Motor Vehicles.

(e) The commissioner is authorized to promulgate procedural rules as may be necessary to carry out the provisions of any agreements entered into pursuant to this section.

(f) The commissioner is authorized to collect and receive funds under this article pursuant to the authority vested in him or her under article six-g of chapter eleven of this code.

WV Legislature

(g) The commissioner is hereby authorized and required to share with the interstate commerce disclosure division of the office of the State Auditor any and all information acquired by the Division of Motor Vehicles pursuant to the implementation of this article. The division shall provide to the interstate commerce disclosure division, and the Department of Tax and Revenue the name of the location and amount paid by West Virginia owners or operators of interstate motor vehicles registered under the proportional registration agreement.

(h) For any other irregular, intermittent or temporary interstate commerce activity, the Division of Motor Vehicles is hereby empowered to promulgate rules for the administration and oversight thereof.

(i) Notwithstanding any other provision of the code to the contrary, the requirements of the proportional assessment plan as contained in article six-g, chapter eleven of this code, and the provisions of this chapter, shall prevail in the event of any conflict with any other portion of the code.

WV Legislature

§17A-2-10b. Same – Entry into reciprocal agreements with certain foreign countries.

(a) The commissioner shall seek to enter into reciprocal agreements with the proper authorities of the foreign countries specified in subsection (e) of this section, which agreements shall provide for:

(1) The recognition of valid driver's licenses of citizens of said foreign countries in this state when such citizens are lawfully present in the United States; and

(2) The recognition of valid driver's licenses of citizens of this state by the authorities of said foreign countries.

The commissioner shall only enter into such reciprocal agreements upon a determination that the requirements and qualifications for the issuance of a driver's license in the foreign country are at least as stringent as those of this state. Following the entry into a reciprocal agreement, a citizen of the country that is party to the agreement, who possesses a valid driver's license issued by the appropriate licensing authority of that country, and who is otherwise lawfully present in the United States, may, subject to the terms of the relevant reciprocal agreement, operate a motor vehicle in this state without obtaining a West Virginia driver's license.

(b) Any person operating a motor vehicle in this state with a foreign driver's license granted recognition by a reciprocal agreement entered into under this section must comply with the compulsory motor vehicle liability insurance and financial responsibility laws of this state.

(c) A citizen of a foreign country that has entered into a reciprocal agreement with this state pursuant to this section shall not, by virtue of having his or her foreign driver's license recognized for use in this state, be registered to vote in this state pursuant to §3-2-11 of this code.

(d) The commissioner may, in his or her discretion, set registration and other fees for the recognition of foreign driver's licenses under reciprocal agreements entered into pursuant to this section.

(e) Reciprocal agreements with the following foreign countries are hereby authorized:

(1) The Republic of Ireland; and

(2) Japan.

(f) The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code providing for the entry into reciprocal agreements pursuant to the provisions of this section.

WV Legislature

§17A-2-11. Commissioner of motor vehicles -- Delegation of powers and duties.

All powers and duties vested in the commissioner, except the power to sign contracts and make rules and regulations, may be exercised by the appointees or employees of the commissioner, under his direction; but the commissioner shall be responsible for their acts.

WV Legislature

§17A-2-12. Commissioner of motor vehicles -- Commissioner to prescribe forms.

The commissioner shall prescribe and provide suitable forms of applications, certificates of title, registration cards, operators' and chauffeurs' licenses, and all other forms requisite or deemed necessary to carry out the provisions of this chapter and any other laws, the enforcement and administration of which are vested in the department.

WV Legislature

§17A-2-12a. Commissioner of Motor Vehicles — commissioner shall prescribe forms providing for veteran contributions.

(a) Notwithstanding §17A-2-12 of this code, the commissioner shall prescribe and provide suitable forms of application which provide the following applicants the ability to make a contribution of $5, $10, or other amount to the West Virginia Department of Veterans Assistance:

(1) Applicants for original or renewal driver's licenses or identification cards; and

(2) Applicants for a renewal of a vehicle registration.

(b) A contribution under §17A-2-12a(a) of this code shall be added, as appropriate, to the regular fee for:

(1) An original or renewal driver's license or identification card; and

(2) A renewal of a vehicle registration.

(c) Contributions under §17A-2-12a(a) of this code shall be used exclusively for purposes set forth in §9A-1-1 et seq. of this code.

(d) The division shall determine on a monthly basis the total amount collected under this section and report and transfer said amount to the State Treasurer. The State Treasurer shall transfer the amount collected under this section to the West Virginia Department of Veterans Assistance.

(e) The West Virginia Department of Veterans Assistance shall reimburse the Motor Vehicle Fees Fund for the actual costs incurred by the division in the administration of this section.

WV Legislature

§17A-2-13. Authority to administer oaths and certify copies of records; information as to registration.

(a) Officers and employees of the division designated by the commissioner are, for the purpose of administering the motor vehicle laws, authorized to administer oaths and acknowledge signatures, and shall do so without fee.

(b) The commissioner and such officers of the division as he or she may designate are hereby authorized to prepare under the seal of the division and deliver upon request in conformance with article two-a of this chapter a certified copy of any record of the division, charging a fee of $1.50 for each document so authenticated, and every such certified copy is admissible in any proceeding in any court in like manner as the original thereof. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

(c) Subject to the provisions of article two-a of this chapter, the commissioner and such officers of the division as he or she may designate may furnish the requested information to any person making a written request for information regarding the registration of any vehicle at a fee of $1.50 for each registration about which information is furnished. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

(d) The provisions of this section enacted in 2017 take effect on July 1, 2017.

WV Legislature

§17A-2-14. Destruction of records.

The commissioner may destroy any records of the division which have been maintained on file for three years which he or she deems obsolete and of no further service in carrying out the powers and duties of the division: Provided, That where it is shown that both parties to an accident have filed valid evidence of insurance, the records relating thereto may be destroyed after a period of six months.

WV Legislature

§17A-2-15. Examination, granting and rejection of applications.

The department shall examine and determine the genuineness, regularity, and legality of every application for registration of a vehicle, for a certificate of title therefor, and for an operator's or chauffeur's license and of any other application lawfully made to the department, and may in all cases make such investigation as may be deemed necessary or require additional information, and shall reject any such application if not satisfied of the genuineness, regularity, or legality thereof or the truth of any statement contained therein, or for any other reason, when authorized by law.

WV Legislature

§17A-2-16. Cancellation, suspension, seizure, etc., of documents and plates.

The department is hereby authorized to take possession of any certificate of title, registration card, permit, license, or registration plate issued by it upon expiration, revocation, cancellation, or suspension thereof, or which is fictitious, or which has been unlawfully or erroneously issued.

When the department determines that the required fee for the issuance by the department of any registration card, permit, license or registration plate, or the required tax imposed by section four of article three of this chapter, has not been paid and shall not be paid upon reasonable notice and demand, the commissioner is authorized and empowered to cancel or suspend or revoke, as he shall deem appropriate, any and all registration cards, permits, operator's and chauffeur's licenses, and registration plate or plates, issued to the person, firm or corporation by whom or on whose account any such fee or tax shall have been so determined to remain unpaid after such reasonable notice and demand.

WV Legislature

§17A-2-17. Distribution of synopsis of motor vehicle laws.

The department shall prepare in pamphlet form a synopsis or summary of the laws of this state regulating the operation of vehicles and shall deliver a copy thereof without charge with each original vehicle registration and with each original operator's or chauffeur's license, and to any other citizen of the state upon application.

WV Legislature

§17A-2-18. Department may summon witnesses and take testimony.

(a) The commissioner and officers of the department designated by him shall have authority to summon witnesses to give testimony under oath or to give written deposition upon any matter under the jurisdiction of the department. Such summons may require the production of relevant books, papers, or records.

(b) Every such summons shall be served at least five days before the return date, either by personal service made by any person over eighteen years of age or by registered mail, but return acknowledgment is required to prove such latter service. Failure to obey such a summons so served shall constitute a misdemeanor. The fees for the attendance and travel of witnesses shall be the same as for witnesses before the circuit court.

(c) Any circuit court shall have jurisdiction, upon application by the commissioner, to enforce all lawful orders of the commissioner under this section.

WV Legislature

§17A-2-19. Giving of notice.

(a) Whenever the division is authorized or required to give any notice under this chapter or other law regulating the operation of vehicles, unless a different method of giving such notice is otherwise expressly prescribed or authorized, such notice shall be given either by personal delivery thereof to the person to be so notified, or by deposit in the United States mail of the notice in an envelope with postage prepaid, addressed to the person at his or her address as shown by the records of the division.

(b) (1) Notwithstanding any provision in this chapter, chapter 17B, chapter 17D, or chapter 17G of this code to the contrary, whenever the division is required to deliver notice by United States mail, certified mail, or registered mail, the division may instead deliver such notice by electronic means as provided in this subsection. For purposes of this subsection, "notice by electronic means" or "electronic notice" means notice by electronic mail, text message, online portal of the division, mobile application of the division, or alternate delivery method having the capability of generating a read receipt or other confirmation of access of the notice.

(2) Electronic notice may be used for any person who provided the division with means for electronic access to such person. The division shall make reasonable methods available to its customers to provide and update contact information for electronic notice.

(3) Delivery of electronic notice is complete upon receipt by the division of evidence of electronic notice access. If there is no confirmation of access of the electronic notice within four days, the division shall provide additional notice by United States mail, either regular mail or certified mail, at the discretion of the division.

(c) Delivery of notice by mail is complete upon the expiration of four days after such deposit of the notice. Proof of the giving of notice in any manner may be made by the certificate of any officer or employee of the division or affidavit of any person over 18 years of age, naming the person to whom the notice was given, and specifying the time, place, and manner of the giving thereof.

WV Legislature

§17A-2-20. Legal services rendered to the commissioner.

(a) It is the duty of the Attorney General and assistant attorneys general of this state, the prosecuting attorneys of the several counties, and the legal representatives of the municipalities of this state to render to the commissioner, without additional compensation, any legal services as required in the discharge of the commissioner's duties under the provisions of this chapter.

(b) Any legal services provided pursuant to the provisions of §17C-5-7a of this code:

(1) Are not services provided to the commissioner in the discharge of his or her duties; and

(2) Are the sole responsibility of either the prosecuting attorney of the county with jurisdiction over the matter or the legal representative of the municipality with jurisdiction over the matter, as appropriate.

WV Legislature

§17A-2-21. Motor Vehicle Fees Fund.

Effective July 1, 2007, there is hereby created a special revenue account within the state Treasury to be known as the Motor Vehicle Fees Fund which shall consist of moneys paid into the account in accordance with other provisions of this code and any additional sums appropriated by the Legislature. All other taxes and fees imposed and collected under the provisions of this chapter shall be paid to the state Treasurer in the manner provided by law and credited to the state Road Fund.

WV Legislature

§17A-2-22. Administrative expense.

The expense of the administration of the motor vehicle department shall be appropriated for that purpose from the state road funds.

WV Legislature

§17A-2-23. Worthless checks tendered for fees and taxes; penalty.

If a check tendered to the Division of Motor Vehicles is returned to the division unpaid for any reason, there shall be a penalty of $10 to be paid to the division in addition to the amount due the division. This penalty applies to checks tendered for any fee or tax authorized to be collected by the division and is in addition to any other penalties imposed in this code: Provided, That in the event a specific penalty is set forth for the nonpayment or late payment of fees and taxes, the penalty set forth in this section applies only to the extent that the penalty exceeds any specific penalty for nonpayment or late payment.

WV Legislature

§17A-2-24.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

WV Legislature

§17A-2-25. Agreements with West Virginia Parkways Authority.

The Division is hereby authorized, directed and empowered to enter into all necessary agreements with the West Virginia Parkways Authority to collect road user fees imposed by the authority under subdivision (16), subsection (a), section six, article sixteen-a, chapter seventeen of this code, or any other applicable section of its enabling legislation, and to deposit the fees collected by the Division into the West Virginia Parkways Authority Single Fee Program Fund established under section eleven-a, article sixteen-a, chapter seventeen of this code.

WV Legislature

§17A-2-26. Enrollment of persons with communication disability.

(a) As used in this section:

(1) "Communication disability" has the same meaning as in §17A-2-27 of this code.

(2) "Disability that can impair communication" has the same meaning as in §17A-2-27 of this code.

(3) "Legal guardian" has the same meaning as in §49-1-205 of this code.

(4) "Ward" means a person for whom a legal guardian has been appointed.

(b) The Division of Motor Vehicles shall establish and maintain an enrollment list of persons who enroll under this section as being diagnosed with a communication disability or a disability that can impair communication.

(c) Any person diagnosed with a communication disability or a disability that can impair communication who is 18 years of age or older may enroll with the division for inclusion in the enrollment list by submitting a completed verification form to the division.

(d) Any parent or guardian of a minor child or a ward diagnosed with a communication disability or a disability that can impair communication may enroll the minor child or the ward with the division for inclusion in the enrollment list by submitting a completed verification form to the division.

(e) (1) The division shall include in the enrollment list information provided on a completed verification form that the division determines is necessary for a law-enforcement officer to identify a person as diagnosed with a communication disability or a disability that can impair communication. The division shall make the enrollment list available to state and local law-enforcement officers through a law-enforcement automated data system.

(2) Information in the enrollment list is not a public record subject to inspection or copying under chapter 29B of this code.

(f) A person diagnosed with a communication disability or a disability that can impair communication who is included in the enrollment list, or the parent or guardian of a minor child or a ward diagnosed with a communication disability or a disability that can impair communication who is included in the enrollment list, may request removal of the person, minor or ward, as applicable, from the enrollment list. The person, parent or guardian shall do so by completing the verification form with only the information required under §17A-2-27(c)(1), §17A-2-27(c)(2), §17A-2-27(c)(3), §17A-2-27(c)(8), and §17A-2-27(c)(9) of this code, as applicable, and submitting the form to the division. Upon receipt of a properly completed verification form requesting the removal of a person with a communication disability or a disability that can impair communication from the enrollment list, the division shall immediately remove that person from the enrollment list.

WV Legislature

(g) The division may propose rules for promulgation in accordance with the provisions of §29A-3-1 *et seq.* of this code to carry out the requirements of this section.

WV Legislature

§17A-2-27. Form for inclusion in enrollment list with a communication disability.

(a) As used in this section:

(1) "Communication disability" means a human condition involving an impairment in the human's ability to receive, send, process, or comprehend concepts or verbal, nonverbal, or graphic symbol systems that may result in a primary disability or may be secondary to other disabilities.

(2) "Disability that can impair communication" means a human condition with symptoms that can impair the human's ability to receive, send, process, or comprehend concepts or verbal, nonverbal, or graphic symbol systems.

(3) "Legal guardian" has the same meaning as in §49-1-205 of this code.

(4) "Health care provider" means a person as defined in §16-30-3 of this code.

(5) "Psychiatrist" means a licensed physician who has satisfactorily completed a residency training program in psychiatry, as approved by the residency review committee of the American Medical Association, the committee on post-graduate education of the American Osteopathic Association, or the American Osteopathic Board of Neurology and Psychiatry.

(6) "Psychologist" means a person licensed under the provisions of §30-21-1 *et seq.* of this code.

(b) The form shall include the following information:

(1) The name of the person diagnosed with a communication disability or a disability that can impair communication;

(2) The name of the person completing the form on behalf of the person diagnosed with a communication disability or a disability that can impair communication, if applicable;

(3) The relationship between the person completing the form and the person diagnosed with a communication disability or a disability that can impair communication, if applicable;

(4) The driver's license number or state identification card number issued to the person diagnosed with a communication disability or a disability that can impair communication, if that person has such a number;

(5) The license plate number of each vehicle owned, operated, or regularly occupied by the person diagnosed with a communication disability or a disability that can impair communication, or enrolled in that person's name;

(6) A physician's, psychiatrist's, or psychologist's signed certification that the person has been diagnosed with a communication disability or a disability that can impair

WV Legislature

communication;

(7) The name, business address, business telephone number, and medical license number of the physician, psychiatrist, or psychologist making the certification;

(8) The signature of the person diagnosed with a communication disability or a disability that can impair communication, or the signature of the person completing the form on behalf of such a person, that may indicate the desire to be removed from the database; and

(9) *Option to explain* – A place where the person or persons may include a short explanation of the type of disability, possible symptoms, and measures which could alleviate or lessen the symptoms.

(c) Any of the following persons may complete the verification form:

(1) Any person diagnosed with a communication disability or a disability that can impair communication who is 18 years of age or older;

(2) The parent or parents of a minor child diagnosed with a communication disability or a disability that can impair communication;

(3) The guardian of a person diagnosed with a communication disability or a disability that can impair communication, regardless of the age of the person.

(d) The Division of Motor Vehicles shall make the verification form electronically available on each of their respective websites.

WV Legislature