WEST VIRGINIA CODE CHAPTER 17a ARTICLE 4

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§17A-4-1. Registration expires on transfer by owner; transfer, surrender or retention of plates.

Whenever the owner of a registered vehicle transfers or assigns his or her title, or interest thereto, the registration of such vehicle shall expire: Provided, That such owner, if he or she has made application to the department within sixty days from the date of purchase to have said registration plates transferred to be used on another vehicle owned by said owner, may then operate the other vehicle for a period of sixty days, but in no event longer than sixty days from the date of original transfer. Upon such transfer, it shall be the duty of the original owner to retain the registration plates issued therefor and to immediately notify the commissioner of such transfer upon such form as may be provided therefor and to deliver to him or her the certificate of registration, whereupon the commissioner shall, upon the payment of a fee of $10, issue a new certificate showing the use to be made of such plates. The Division of Motor Vehicles may adjust the fee for each new certificate 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. Such plates may then be used by such owner on another vehicle of the same class as the vehicle for which they were originally issued if such other vehicle does not require a greater license fee than was required for such original vehicle. If such other vehicle requires a greater license fee than such original vehicle, then such plates may be used by paying such difference to the commissioner. When such transfer of ownership is made to a licensed dealer in motor vehicles it shall be the duty of such dealer to immediately execute notification of transfer, in triplicate, and to have this notification properly signed by the owner making the transfer. The dealer shall immediately forward to the department the original copy of the notification of transfer. One copy of the notification of transfer shall be given to the owner and one shall be retained by the dealer. The owner shall immediately send to the department the transfer fee of $10 with any additional fee that may be required under the terms of this chapter. The owner’s copy, properly signed by the dealer, will be the owner’s identification until he or she receives a new registration card from the department.

The owner of a set of registration plates may surrender them to the commissioner together with the registration card and, upon the payment of $10 as an exchange fee and upon the payment of such additional fees as are necessary to equalize the value of the plates surrendered with the value of registration plates desired, receive in exchange a set of plates and registration card for a vehicle of a different class.

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§17A-4-2. Endorsement of certificate of title upon transfer by owner.

Whenever the owner of a registered vehicle transfers or assigns his title, he shall endorse an assignment and warranty of title upon the certificate of title for such vehicle with a statement of all liens and encumbrances thereon, which statement shall be verified under oath by the owner, and he shall within sixty days from date of sale deliver the certificate of title to the purchaser or transferee, except in the case of a vehicle sold as scrap or to be dismantled.

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§17A-4-3. New owner must secure registration and certificate of title.

The transferee before operating or permitting the operation of such vehicle upon a highway shall apply for and obtain the registration thereof, as upon an original registration, except as otherwise permitted in sections thirteen and fifteen, article six, or by any other provisions of this chapter: Provided, That such transferee may operate such vehicle under the registration of its previous owner for a period of not more than ten days as provided in section one, article three of this chapter.

A transferee shall at the same time present the certificate of title endorsed and assigned as hereinbefore provided to the department and make application for and obtain a new certificate of title for such vehicle, except as otherwise permitted in sections four and five of this article.

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§17A-4-4. Transfers to dealers and others.

When the transferee of a vehicle is a dealer who holds the same for resale and lawfully operates the same under dealer's plates, such dealer shall not be required to obtain a new registration of said vehicle or be required to forward the certificate of title to the department, but such dealer upon transferring his title or interest to another person shall execute and acknowledge an assignment and warranty of title upon the certificate of title and deliver the same not later than sixty days from date of sale to the person to whom such transfer is made.

When the transferee of a vehicle does not drive such vehicle or permit it to be driven upon the highways, such transferee shall not be required to obtain a new registration of said vehicle, but such transferee shall be required within sixty days from the date of such transfer to forward the certificate of title to the department accompanied by an application for a new certificate of title in his name.

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§17A-4-5. Transfer by operation of law.

Whenever the title or interest of an owner in or to a registered vehicle shall pass to another otherwise than by voluntary transfer, the registration thereof shall expire and the vehicle shall not be operated upon the highways unless and until the person entitled to possession of such vehicle shall apply for and obtain the registration thereof, except that such vehicle may be operated by the person entitled to its possession or his legal representative upon the highways for a distance not exceeding seventy-five miles upon displaying upon such vehicle the registration plates issued to the former owner, or in the event title has become vested in the person holding a lien or encumbrance upon said vehicle, such person may apply to the department for and obtain special plates as may be issued under this chapter to dealers or others and may operate any said repossessed vehicle under such special plates only for purposes of transporting the same to a garage or warehouse or for purposes of demonstrating or selling the same: Provided, That the commissioner is authorized to transfer the plates and registration of a deceased person to his legal heir or legatee without payment of any fee and the legal heir or legatee may keep and use the same license plate until it regularly expires.

Upon any transfer the new owner may secure a new registration and certificate of title upon proper application and upon presentation of the last certificate of title, if available, and such instruments or documents of authority or certified copies thereof as may be sufficient or required by law to evidence or effect a transfer of title or interest in or to chattels in such case. In the event title has become vested in the person or financial institution holding a lien or encumbrance upon said vehicle, such person or institution need not obtain a new registration of said vehicle or forward the certificate of title to the department in order to sell the vehicle, but the person or institution upon transfer of title or interest to another shall execute and acknowledge an assignment and warranty of title upon the certificate of title and deliver the same not later than sixty days from the date of sale to the purchaser. The person or institution holding a lien or encumbrance upon the vehicle who acquires the vehicle as a result of the lien or encumbrance and subsequently, within sixty days, sells the vehicle in satisfaction of the debt creating the lien or encumbrance, shall not be subject to any privilege tax or personal property tax on the vehicle imposed by any other section.

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§17A-4-6. When department to register vehicle and issue new certificate; file of surrendered certificates.

The department upon receipt of a properly endorsed certificate of title and proper application for registration accompanied by the required fee and when satisfied as to the genuineness and regularity of said transfer and of the right of the transferee to a certificate of title shall reregister the vehicle as upon a new registration in the name of the new owner and issue a new certificate of title as upon an original application.

The department shall retain and appropriately file every surrendered certificate of title, such file to be so maintained as to permit the tracing of title of the vehicles designated therein.

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

A person holding a lien or encumbrance as shown upon a certificate of title upon a vehicle may release the lien or encumbrance or assign his or her interest to the owner without affecting the registration of the vehicle. The division, upon receiving an electronic acknowledgment of a release of lien from the lienholder or a certificate of title upon which a lienholder has released or assigned his or her interest to the owner or upon receipt of a certificate of title not so endorsed but accompanied by a legal release from a lienholder of this interest in or to a vehicle, shall issue a new certificate of title as upon an original application. The division, upon receiving an electronic acknowledgment of a release of lien from the lienholder shall issue, without further application or fee a new certificate of title free of any lien or encumbrance to the vehicle owner to the address shown in the division's records.

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§17A-4-8. Failure to deliver certificate a misdemeanor.

It is a misdemeanor for any person to fail or neglect to properly endorse and deliver a certificate of title to a transferee or owner lawfully entitled thereto.

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§17A-4-9. Owner after transfer not liable for negligent operation.

The owner of a motor vehicle who has made a bona fide sale or transfer of his title or interest and who has delivered possession of such vehicle and the certificate of title thereto properly endorsed to the purchaser or transferee shall not be liable for any damages thereafter resulting from negligent operation of such vehicle by another.

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§17A-4-10. Salvage certificates for certain wrecked or damaged vehicles; fee; penalty.

(a) In the event a motor vehicle is determined to be a total loss or otherwise designated as totaled by an insurance company or insurer, and upon payment of a total loss claim to an insured or claimant owner for the purchase of the vehicle, the insurance company or the insurer, as a condition of the payment, shall require the owner to surrender the certificate of title: *Provided*, That an insured or claimant owner may choose to retain physical possession and ownership of a total loss vehicle. If the vehicle owner chooses to retain the vehicle and the vehicle has not been determined to be a cosmetic total loss in accordance with subsection (d) of this section, the insurance company or insurer shall also require the owner to surrender the vehicle registration certificate. The term "total loss" means a motor vehicle which has sustained damages equivalent to seventy-five percent or more of the market value as determined by a nationally accepted used car value guide or meets the definition of a flood-damaged vehicle as defined in this section.

(b) The insurance company or insurer shall, prior to the payment of the total loss claim, determine if the vehicle is repairable, cosmetically damaged, or nonrepairable. Except as provided in subsection (p) of this section, within 10 days of payment of the total loss claim, the insurance company or insurer shall surrender the certificate of title, a copy of the claim settlement, a completed application on a form prescribed by the commissioner, and the registration certificate if the owner has chosen to keep the vehicle to the Division of Motor Vehicles.

(c) If the insurance company or insurer determines that the vehicle is repairable, the division shall issue a salvage certificate, on a form prescribed by the commissioner, in the name of the insurance company, the insurer, or the vehicle owner if the owner has chosen to retain the vehicle. The certificate shall contain, on the reverse, spaces for one successive assignment before a new certificate at an additional fee is required. Upon the sale of the vehicle, the insurance company, insurer, or vehicle owner if the owner has chosen to retain the vehicle, shall complete the assignment of ownership on the salvage certificate and deliver it to the purchaser. The vehicle may not be titled or registered for operation on the streets or highways of this state unless there is compliance with subsection (h) of this section. The division shall charge a fee of $22.50 for each salvage title issued. The Division of Motor Vehicles may adjust the fee for each salvage title 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 10 percent of the total fee amount in a single year.

(d) If the insurance company or insurer determines the damage to a totaled vehicle is exclusively cosmetic and no repair is necessary in order to legally and safely operate the motor vehicle on the roads and highways of this state, the insurance company or insurer shall, upon payment of the claim, submit the certificate of title to the division. Neither the insurance company nor the division may require the vehicle owner to surrender the registration certificate in the event of a cosmetic total loss settlement.

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(1) The division shall, without further inspection, issue a title branded "cosmetic total loss" to the insured or claimant owner if the insured or claimant owner wishes to retain possession of the vehicle, in lieu of a salvage certificate. The division shall charge a fee of $22.50 for each cosmetic total loss title issued. The terms "cosmetically damaged" and "cosmetic total loss" do not include any vehicle which has been damaged by flood or fire. The designation "cosmetic total loss" on a title may not be removed. The Division of Motor Vehicles may adjust the fee for each cosmetic total loss title 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.

(2) If the insured or claimant owner elects not to take possession of the vehicle and the insurance company or insurer retains possession, the division shall issue a cosmetic total loss salvage certificate to the insurance company or insurer. The division shall charge a fee of $22.50 for each cosmetic total loss salvage certificate issued. The Division of Motor Vehicles may adjust the fee for each cosmetic total loss salvage certificate 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. The division shall, upon surrender of the cosmetic total loss salvage certificate issued under the provisions of this paragraph and payment of the five percent motor vehicle sales tax on the fair market value of the vehicle as determined by the commissioner, issue a title branded "cosmetic total loss" without further inspection.

(e) If the insurance company or insurer determines that the damage to a totaled vehicle renders it nonrepairable, incapable of safe operation for use on roads and highways, and as having no resale value except as a source of parts or scrap, the insurance company or vehicle owner shall, in the manner prescribed by the commissioner, request that the division issue a nonrepairable motor vehicle certificate in lieu of a salvage certificate. The division shall issue a nonrepairable motor vehicle certificate without charge.

(f) Any owner who scraps, compresses, dismantles, or destroys a vehicle without further transfer or sale for which a certificate of title, nonrepairable motor vehicle certificate, or salvage certificate has been issued shall, within 45 days, surrender the certificate of title, nonrepairable motor vehicle certificate, or salvage certificate to the division for cancellation.

(g) Any person who purchases or acquires a vehicle as salvage or scrap, to be dismantled, compressed, or destroyed, shall, within 45 days, surrender to the division the certificate of title, nonrepairable motor vehicle certificate, salvage certificate, or a statement of cancellation signed by the seller, on a form prescribed by the commissioner. Subsequent purchasers of salvage or scrap are not required to comply with the notification requirement.

(h) If the motor vehicle is a "reconstructed vehicle" as defined in this section or §17A-1-1 of this code, it may not be titled or registered for operation until it has been inspected by an official state inspection station and by the Division of Motor Vehicles. Following an approved

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inspection, an application for a new certificate of title may be submitted to the division. The applicant is required to retain all receipts for component parts, equipment, and materials used in the reconstruction. The salvage certificate shall also be surrendered to the division before a certificate of title may be issued with the appropriate brand.

(i) The owner or title holder of a motor vehicle titled in this state which has previously been branded in this state or another state as salvage, reconstructed, cosmetic total loss, cosmetic total loss salvage, flood, fire, an equivalent term under another state's laws, or a term consistent with the intent of the National Motor Vehicle Title Information System established pursuant to 49 U. S. C. § 30502 shall, upon becoming aware of the brand, apply for and receive a title from the Division of Motor Vehicles on which the brand "reconstructed", "salvage", "cosmetic total loss", "cosmetic total loss salvage", "flood", "fire", or other brand is shown. The division shall charge a fee of $10 for each title so issued. The Division of Motor Vehicles may adjust the fee for each reconstructed, salvage, cosmetic total loss, cosmetic total loss salvage, flood, fire, or other brand title issued 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 10 percent of the total fee amount in a single year.

(j) If application is made for title to a motor vehicle, the title to which has previously been branded reconstructed, salvage, cosmetic total loss, cosmetic total loss salvage, flood, fire, or other brand by the Division of Motor Vehicles under this section and said application is accompanied by a title from another state which does not carry the brand, the division shall, before issuing the title, affix the brand "reconstructed", "cosmetic total loss", "cosmetic total loss salvage", "flood", "fire", or other brand to the title. The motor vehicle sales tax paid on a motor vehicle titled as reconstructed, cosmetic total loss, flood, fire, or other brand under the provisions of this section shall be based on 50 percent of the fair market value of the vehicle as determined by a nationally accepted used car value guide to be used by the commissioner.

(k) The division shall charge a fee of $22.50 for the issuance of each salvage certificate or cosmetic total loss salvage certificate but shall not require the payment of the five percent motor vehicle sales tax. The Division of Motor Vehicles may adjust the fee for each salvage certificate or cosmetic total loss salvage certificate 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. However, upon application for a certificate of title for a reconstructed, cosmetic total loss, flood or fire damaged vehicle, or other brand, the division shall collect the five percent privilege tax on the fair market value of the vehicle as determined by the commissioner unless the applicant is otherwise exempt from the payment of such privilege tax. A wrecker/dismantler/rebuilder, licensed by the division, is exempt from the payment of the five percent privilege tax upon titling a reconstructed vehicle. The division shall collect a fee of $35 per vehicle for inspections of reconstructed vehicles. These fees shall be deposited in a special fund created in the State Treasurer's office and may be expended by the division to carry out the provisions of this article: *Provided*, That on and

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after July 1, 2007, any balance in the special fund and all fees collected pursuant to this section shall be deposited in the State Road Fund. Licensed wreckers/dismantlers/rebuilders may charge a fee not to exceed $25 for all vehicles owned by private rebuilders which are inspected at the place of business of a wrecker/dismantler/rebuilder.

(l) As used in this section:

(1) "Reconstructed vehicle" means the vehicle was totaled under the provisions of this section or by the provisions of another state or jurisdiction and has been rebuilt in accordance with the provisions of this section or in accordance with the provisions of another state or jurisdiction or meets the provisions of §17A-1-1(n) of this code.

(2) "Flood-damaged vehicle" means that the vehicle was submerged in water to the extent that water entered the passenger or trunk compartment.

(3) "Other brand" means a brand consistent with the intent of the National Motor Vehicle Title Information System established pursuant to 49 U. S. C. § 30502 and rules promulgated by the United States Department of Justice to alert consumers, motor vehicle dealers or the insurance industry of the history of a vehicle.

(m) Every vehicle owner shall comply with the branding requirements for a totaled vehicle whether or not the owner receives an insurance claim settlement for a totaled vehicle.

(n) A certificate of title issued by the division for a reconstructed vehicle shall contain markings in bold print on the face of the title that it is for a reconstructed, flood, or fire-damaged vehicle.

(o) Any person who knowingly provides false or fraudulent information to the division that is required by this section in an application for a title, a cosmetic total loss title, a reconstructed vehicle title, or a salvage certificate, or who knowingly fails to disclose to the division information required by this section to be included in the application, or who otherwise violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall for each incident be fined not less than $1,000 nor more than $2,500, or imprisoned in jail for not more than one year, or both fined and imprisoned.

(p) Notwithstanding any other provision of law and with respect to a vehicle which the vehicle owner has not chosen to retain, if an insurance company or insurer is unable to obtain the properly endorsed certificate of title for a motor vehicle within 15 days of the payment of a total loss claim, the insurance company or insurer, at any time thereafter, may apply to the Division of Motor Vehicles for a salvage certificate, a cosmetic total loss salvage certificate, or a nonrepairable motor vehicle certificate, as applicable. The application shall be accompanied by evidence that the insurance company or insurer has paid a total loss claim on the vehicle, a copy of a written request for the certificate of title sent to the vehicle owner and any known lienholder by the insurance company or insurer or a designee of the insurance company or insurer, proof that the request was sent by certified mail, return

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receipt requested, to the last known address of the vehicle owner and any known lienholder, service to be complete upon the mailing thereof, and the required fee, if applicable. Upon receipt of a properly completed application, the division shall issue a salvage certificate, a cosmetic total loss salvage certificate or a nonrepairable motor vehicle certificate, as applicable, in the name of the insurance company or insurer. Such salvage certificate, cosmetic total loss salvage certificate, or nonrepairable motor vehicle certificate shall be issued free and clear of all liens and claims of ownership.

(q) If an insurance company or insurer requests that an automobile auction take possession of a motor vehicle that is the subject of an insurance claim, and subsequently the insurance company denies coverage with respect to the motor vehicle or otherwise does not take ownership of the motor vehicle, the automobile auction may proceed as follows. At any time after the automobile auction has had possession of the motor vehicle for 45 days, it may apply to the division for a salvage certificate or a nonrepairable motor vehicle certificate without surrendering the certificate of title for the motor vehicle. The application shall be accompanied by a copy of a written request, on the automobile auction's letterhead, requesting that, upon payment of applicable charges, the vehicle be removed from the automobile auction's facility, proof that the request was delivered by a nationally-recognized courier service or by certified mail to the vehicle owner and any known lienholder at least 15 days before the date of the application, and the required fee, if applicable. Upon receipt of a properly completed application, the division shall issue a salvage certificate or a nonrepairable motor vehicle certificate, as applicable, in the name of the automobile auction. Such salvage certificate or nonrepairable motor vehicle certificate shall be issued free and clear of all liens and claims of ownership.

(r) An applicant pursuant to subsection (p) or (q) of this section shall indemnify and hold harmless the Division of Motor Vehicles from any liability arising from an error or misrepresentation made by such applicant in a submission to the division pursuant to subsection (p) or (q) of this section.

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§17A-4-11. Title Clearinghouse.

(a) The Legislature finds that continuing advances in digital title technology have improved and are expected to continue to improve such that the Division of Motor Vehicles can produce a secure digital title with an efficiency that is sought by businesses in other states. The Legislature hereby authorizes the Division of Motor Vehicles to operate and regulate a title clearinghouse to produce titles for nonresident businesses.

(b) Any nonresident business may apply to participate in the title clearinghouse. Notwithstanding any code provision to the contrary, the division may produce a title for a non-resident business participant in accordance with this section.

(c) The division is authorized to establish a participation fee and title fees for participants. The title fees shall not be less than the fees assessed to residents of this state to obtain a title.

(d) The division shall require a participant to submit a penalty bond payable to the division in the sum of $250,000, conditioned that the participant will not commit any fraud against any purchaser, seller, financial institution, the State of West Virginia or any other state through the use of the title clearinghouse.

(e) The division may issue emergency rules and propose legislative rules to implement the provisions of this section.

(f) The title clearinghouse is not intended to supplant any reciprocal agreements or compacts for title and registration entered by the division with other states and jurisdictions. If any provision of this section or rule is deemed to conflict with a reciprocal agreement or compact, the conflicting provision in this section or rule shall not apply.

(g) The commissioner is authorized to develop and manage a registration process designed for resident businesses maintaining a local, national or international fleet of vehicles.

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§17A-4-12.

Repealed.

Acts, 1970 Reg. Sess., Ch. 56.

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