

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935

ENROLLED

HOUSE BILL No. 158

(By Mr. Committion
Roads)

PASSED March 9th 1935

In Effect July 1st 1935 Passage

ENROLLED

COMMITTEE SUBSTITUTE FOR

House Bill No. 158

(Originating in the Committee on Roads)

[Passed March 9, 1935; in effect July 1, 1935.]

AN ACT to add sections five-(a), twenty-six and twenty-seven to article one, and to amend and reenact sections three, five, ten, twelve, twenty, twenty-(a), twenty-(b), twenty-three and twenty-five of article six, and to add thereto sections four-(a), four-(b), four-(c) and four-(d), and to amend and reenact section six, article seven, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter sixty, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, and chapters twenty-three and twenty-four, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, and to vest authority in the road commissioner to exer-

cise the requirements of law set out in said sections; defining truck tractors, certificates of convenience and permits; providing for the issuance of certificates of convenience and permits for certain vehicles operated for compensation; providing for the issuance of certificates of convenience for vehicles operated in interstate commerce; providing for the regulation of vehicles operated for compensation and prescribing the fees therefor and the penalties for the violation of such provisions; defining the terms of certificates of convenience and permits; prescribing the fees for certain vehicles, restricting the load of certain vehicles and providing for additional fees for weights in excess of such restrictions; prescribing penalties for certain violations, prescribing the license period, prohibiting the operation of vehicles without proper registration plates and prescribing penalties for the violation thereof; providing for the regulation of dealers in motor vehicles and prescribing penalties for the violation of such regulations.

Be it enacted by the Legislature of West Virginia:

That sections three, five, ten, twelve, twenty, twenty-(a), twenty-(b), twenty-three and twenty-five of article six, and sec-

tion six, article seven, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter sixty, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, and chapters twenty-three and twenty-four, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted, and that sections five-(a), twenty-six and twenty-seven, reading as hereinafter set forth, be added to article one, and that sections four-(a), four-(b), four-(c) and four-(d), reading as hereinafter set forth, be added to article six of said chapter seventeen.

ARTICLE I

Section 5-(a). "Truck Tractor" shall mean and include
2 any motor vehicle designed and used primarily for drawing
3 or propelling other vehicles and not so constructed as to carry
4 a load other than a part of the weight of the vehicle and
5 load so drawn.

Sec. 26. "Certificate of Convenience" as used in this chap-
2 ter shall mean and include all certificates of convenience issued
3 or to be issued by the state road commissioner authorizing

4 the transportation of passengers or property, or both, for com-
5 pensation, over a regular route or between fixed termini.

Sec. 27. "Permit" as used in this chapter shall mean and
2 include all permits issued or to be issued by the state road
3 commissioner authorizing the transportation of passengers or
4 property, or both, for compensation, other than over a regular
5 route or between fixed termini.

ARTICLE VI

Section 3. No motor vehicle shall be operated over any
2 public road, highway, street or alley in this state, for public
3 transportation of passengers or property, or both, for compen-
4 sation until the owner or operator of such vehicle shall first
5 have made application to and secured from the state road
6 commissioner a permit or certificate of convenience to operate
7 such vehicle. Such classification shall include public livery
8 vehicles, cars for hire or for rent, taxi cabs, bus lines, truck
9 lines, and any other public transportation of passengers or
10 property for compensation, without regard to whether such
11 operation is between fixed termini or other regular routes or
12 otherwise.

13 The state road commissioner may also grant certificates of
14 convenience and necessity and permits for the transporta-
15 tion of persons or property, or both, for compensation in
16 interstate commerce, and regulate such interstate commerce
17 under the authority of and in accordance with the provisions
18 of any statute that has been or hereafter may be enacted by
19 the Congress of the United States, vesting in or delegating
20 to the state road commissioner of West Virginia the authority,
21 as an agency of the United States Government, so to grant
22 such certificates and permits, and so to regulate such com-
23 merce. If the Legislature shall by statute transfer from the
24 state road commissioner to any other commission, board or
25 officer, the authority to grant certificates of convenience and
26 permits and to regulate intrastate transportation of persons
27 or property, or both, for compensation, then the authority
28 herein granted shall vest in such other commission, board or
29 officer. The state road commissioner, or such other com-
30 mission, board or officer, as the case may be, is hereby author-
31 ized to notify the proper department of the federal govern-
32 ment of his or its assent to conform to the requirements, con-

33 ditions and obligations of said statute of the congress in regard
34 to interstate commerce by motor vehicles.

Sec. 4-(a). The state road commissioner shall have the
2 power to issue to any applicant a permit for the transporta-
3 tion of property for compensation other than over a regular
4 route or between fixed termini, or to issue it for the partial
5 exercise only of the privileges sought and may attach to the
6 exercise of the rights given by such terms and conditions as in
7 his judgment may be necessary for the welfare and adequate
8 protection of the public. No license shall be issued by the com-
9 missioner for the operation of any vehicle or vehicles under
10 Classes K or L until the applicant for such license shall have
11 first applied for and obtained from the commissioner a permit
12 as provided for in this article and section. No permit shall be
13 issued by the commissioner to any non-resident operator until
14 such non-resident operator shall have executed and filed with
15 the secretary of state of this state a writing constituting the
16 secretary of state attorney in fact of such non-resident oper-
17 ator, upon whom all legal processes in any action, suit or pro-
18 ceeding against such non-resident operator may be served, or
19 the secretary of state may accept service of all such processes.

Sec. 4-(b). The annual permit fee for all trucks and truck
 2 tractors used for the transportation of property for compen-
 3 sation other than those operated under a certificate of con-
 4 venience and necessity shall be as follows:

		Pneumatic	Solid
	Capacity	Tires	Tires
5			
6			
7	One ton or less.....	\$ 20.00	\$ 32.00
8	Over 1 ton to 1½ tons.....	30.00	42.00
9	Over 1½ tons to 2 tons.....	40.00	55.00
10	Over 2 tons to 3 tons.....	83.00	122.00
11	Over 3 tons to 4 tons.....	125.00	185.00
12	Over 4 tons to 5 tons.....	175.00	260.00
13	For each additional ton over 5 tons.....	100.00	150.00

Sec. 4-(c). The permit fee for all trailers and semi-trailers
 2 used for the transportation of property for compensation, other
 3 than those operated under a certificate of convenience and neces-
 4 sity, shall be as follows:

		Trailers		Semi-trailers	
	Capacity	Pneumatic	Solid	Pneumatic	Solid
		Tires	Tires	Tires	Tires
5					
6					
7					
8	One ton or less.....	\$ 16.00	\$ 24.00	\$ 10.00	\$ 16.00

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9	Over 1 ton to 2 tons.....	34.00	50.00	21.00	31.00
10	Over 2 tons to 3 tons....	57.00	86.00	32.00	48.00
11	Over 3 tons to 4 tons....	89.00	132.00	46.00	68.00
12	Over 4 tons to 5 tons ...	122.00	184.00	62.00	92.00
13	For each additional ton				
14	over 5 tons.....	100.00	150.00	50.00	75.00

15 *Provided*, That the payments on the permit fees provided for
16 in sections four-(b) and four-(c) of this article may be credited
17 against the registration fees under Classes K and L as required
18 by sections twenty and twenty-(a) respectively of this article.
19 The fees required by sections four-(b) and four-(c) of this
20 article shall not apply to vehicles used for the transportation of
21 live stock, or the unprocessed products of farm or orchard.
22 The fee for permits issued under the provisions of sections
23 four-(a) and four-(b), shall be collected on the same basis as
24 registration fees as provided in section twenty-three of this
25 article.

Sec. 4-(d). Upon the granting of the permit and the payment
2 of the fees provided for in sections four-(a), four-(b) and
3 four-(c), the state road commissioner shall issue the permit to
4 the applicant, giving it a distinguishing mark and number.

5 Such permit shall be of convenient size and form; shall contain
6 data sufficient to identify the vehicle or vehicles to be operated;
7 shall be at all times carried upon such vehicle and shall be sub-
8 ject to examination upon demand by any proper officer as herein
9 provided.

10 In addition to the permit the state road commissioner shall,
11 without additional charge, deliver to the owner one metal plate
12 bearing the abbreviations of the names of the commission and
13 of the state, the year for which issued, and the distinguishing
14 mark or number assigned to such permit and vehicle. Such plate
15 shall be known as a permit plate. The plates shall be of such
16 size, colors and character as the state road commissioner may
17 prescribe so as to properly accommodate the numerals and other
18 marks. Every vehicle operated by the grantee of any permit
19 shall be required to carry one of such plates.

20 No vehicle used for the transportation of property for com-
21 pensation, except vehicles operated under a certificate of con-
22 venience, shall be operated without the proper permit plate
23 fastened thereon in some conspicuous place on the left forward
24 side of said vehicle. Permit plates issued prior to the first of
25 the year for which they are to be effective may be placed on

26 the vehicle for which issued not more than ten days prior to the
27 first day of such year and used without additional permit fee.

28 Any person, firm or corporation engaged in the transportation
29 of property for compensation, except under a certificate of con-
30 venience, who fails to carry the permit in the vehicle for which
31 issued, or who operates a vehicle without the proper permit plate
32 affixed thereto, or who changes the name, number or other iden-
33 tification information on the permit or the permit plates, shall
34 be deemed guilty of a misdemeanor, and upon conviction, shall
35 be fined not less than twenty-five nor more than two hundred
36 dollars, and if such person, firm or corporation be the grantee
37 of a permit, the permit shall be revoked by the state road
38 commissioner.

39 The provisions of this section shall apply both to the operator
40 or chauffeur and to the owner and the agent or lessee of the
41 owner who causes or knowingly permits his vehicle to be oper-
42 ated without the permit and permit plates as herein provided.

Sec. 5. The state road commissioner shall have the power to
2 issue any certificate of convenience and such certificates, when
3 granted, shall remain in effect until cancelled or revoked by the
4 commissioner as hereinafter provided: *Provided, however,* That

5 motor vehicles operated for transportation of passengers or
6 property, or both, for compensation, and not running over a
7 regular route between fixed termini or having a regular time
8 schedule, shall be granted a permit only until the first day of
9 the next annual licensing period. The commissioner is hereby
10 given authority to deny an application for a permit under
11 Class J, if in the judgment of the commissioner the community
12 proposed to be served by the application is adequately served
13 by vehicles operated under permit similar to that for which
14 application is made.

15 Certificates of convenience heretofore granted by the state road
16 commission shall be and remain in full force and effect until
17 revoked or cancelled as provided herein, and shall give the same
18 rights and be subject to the same restrictions as if granted here-
19 under.

20 The state road commissioner may consolidate two or more
21 certificates, cancel a certificate in whole or in part, or extend or
22 divide a certificate already granted if not against public wel-
23 fare, and under such rules as the commissioner may prescribe.

24 Any certificate held, owned or obtained by any person may
25 be sold, assigned, leased, transferred as other property, only

26 upon authorization by the commissioner. The owner of or
27 operator under any certificate of convenience shall make
28 such report and furnish such detailed information with respect
29 to the service rendered as the state road commissioner shall from
30 time to time direct.

Sec. 10. Class A. Fee for motor vehicles of the passenger
2 type, other than those operated for compensation.

3 The registration fee for all motor vehicles of the passenger
4 type, other than those operated for compensation, shall be
5 eleven dollars for a vehicle of a weight of two thousand pounds
6 or less, and for all motor vehicles having a weight of over two
7 thousand pounds, sixty cents additional for each one hundred
8 pounds of weight, or fraction thereof, in excess of two thousand
9 pounds, and for the purpose of determining the weight, except
10 of those used in transportation of passengers or property for
11 compensation, the actual weight of the vehicle shall be taken.

Sec. 12. The registration fee for all vehicles trailed or pro-
2 pelled by any motor vehicle or tractor except those operated for
3 compensation, other than over a regular route or between fixed
4 termini by common carriers, shall be as follows:

5	Trailers		Semi-Trailers		
	6 Capacity	Pneumatic	Solid	Pneumatic	Solid
7		Tires	Tires	Tires	Tires
8	One-half ton trailers....	\$ 9.00	\$ 13.50	\$ 5.00	\$ 10.00
9	One ton or less.....	25.00	37.50	18.75	28.00
10	Over 1 ton to 2 tons....	35.00	52.50	26.25	39.50
11	Over 2 tons to 3 tons....	78.00	117.00	58.50	87.50
12	Over 3 tons to 4 tons....	120.00	180.00	90.00	135.00
13	Over 4 tons to 5 tons....	170.00	255.00	127.50	191.25
14	Over 5 tons to 6 tons....	228.00	342.00	171.00	256.50
15	Over 6 tons to 7 tons....	294.00	441.00	220.50	330.75
16	Over 7 tons to 8 tons....	368.00	552.00	276.00	414.00
17	Over 8 tons to 9 tons....	450.00	675.00	337.50	506.25
18	Over 9 tons to 10 tons..	540.00	810.00	405.00	607.50
19	For each additional ton				
20	over 10 tons.....	100.00	150.00	75.00	112.50

Sec. 20. The registration fee for all motor vehicles, com-
 2 monly designated as trucks and truck-tractors, operated for
 3 transportation of property for compensation, other than over a
 4 regular route or between fixed termini by common carrier, shall
 5 be as follows:

6	Capacity	Pneumatic	Solid
7	Capacity	Tires	Tires
8	One ton or less.....	\$ 30.00	\$ 54.00
9	Over 1 ton to 1½ tons.....	50.00	74.00
10	Over 1½ tons to 2 tons.....	70.00	100.00
11	Over 2 tons to 3 tons.....	156.00	234.00
12	Over 3 tons to 4 tons.....	240.00	360.00
13	Over 4 tons to 5 tons.....	340.00	510.00
14	Over 5 tons to 6 tons.....	456.00	684.00
15	Over 6 tons to 7 tons.....	588.00	882.00
16	Over 7 tons to 8 tons.....	736.00	1104.00
17	Over 8 tons to 9 tons.....	900.00	1350.00
18	Over 9 tons to 10 tons.....	1080.00	1620.00
19	For each additional ton over 10 tons.....	200.00	300.00

Sec. 20-(a). The registration fee for all trailers and semi-
2 trailers used for transportation of property for compensation,
3 other than over a regular route or between fixed termini by
4 common carriers, shall be as follows:

5	Capacity	Trailers		Semi-trailers	
		Pneumatic	Solid	Pneumatic	Solid
6		Tires	Tires	Tires	Tires
7					
8	One ton or less	\$ 30.00	\$ 45.00	\$ 22.50	\$ 33.75
9	Over 1 ton to 2 tons	70.00	105.00	52.50	78.75
10	Over 2 tons to 3 tons ...	156.00	234.00	117.00	175.50
11	Over 3 tons to 4 tons ...	240.00	360.00	180.00	270.00
12	Over 4 tons to 5 tons ...	340.00	510.00	255.00	382.50
13	Over 5 tons to 6 tons ...	456.00	684.00	342.00	513.00
14	Over 6 tons to 7 tons ...	588.00	882.00	441.00	661.50
15	Over 7 tons to 8 tons ...	736.00	1104.00	552.00	828.00
16	Over 8 tons to 9 tons....	900.00	1350.00	675.00	1012.50
17	Over 9 tons to 10 tons..	1080.00	1620.00	810.00	1215.00
18	For each additional ton				
19	over 10 tons	200.00	300.00	150.00	225.00

Sec. 20-(b). For purpose of registration of and determining

2 of all fees to be paid for operation of vehicles in transportation

3 of property, the manufacturer's rated capacity of any such

4 vehicle will be accepted: *Provided*, That if the manufacturer

5 warrant or guarantee such vehicle for a capacity greater than

6 such rated capacity, then such warranted capacity shall be taken

7 and considered as the rated capacity of such vehicle.

8 No vehicle, except by special permit as provided in section
9 twenty of article eight, chapter seventeen of the code, one
10 thousand nine hundred thirty-one, shall be operated upon any
11 public highway of this state, or upon any street or alley
12 within any municipality within this state, with a load thereon
13 more than one hundred percentum greater than the capacity
14 for which such vehicle is registered if such vehicle is registered
15 for a capacity not exceeding two tons, or fifty percentum if
16 such vehicle is registered for a capacity in excess of two tons
17 and not exceeding four tons; or twenty-five percentum if such
18 vehicle is registered for a capacity exceeding four tons.

19 Vehicles may carry loads in excess of the foregoing re-
20 strictions provided additional registration fees are paid on
21 the excess weight in the same proportion that each ton of
22 excess weight, fractions considered whole tons, bears to the
23 permitted weight for which the vehicle has been registered
24 under sections eleven, twelve, eighteen, twenty and twenty-(a)
25 of this article, but no vehicle may carry any load which com-
26 bined with the weight of the vehicle is in excess of the re-

27 strictions imposed upon axle weights by article eight, section
28 nineteen of this chapter.

29 All vehicles shall be titled and registered for their actual
30 or warranted capacity as required by this section; upon the
31 payment of the additional fees provided for in this section
32 the permissible overload as provided for in this section shall
33 be stamped upon the title and registration card in such man-
34 ner as the commissioner may require. The commissioner is
35 hereby authorized to make an additional charge of one dollar
36 for the change and correction of title and registration cards
37 from actual rated capacity to excess capacity and from excess
38 nineteen of this chapter.

39 Any violation of this section shall be a misdemeanor, and
40 upon conviction thereof any owner or operator shall be fined
41 not less than twenty-five nor more than two hundred dollars
42 for the first offense and upon any subsequent offense occurring
43 within the same licensing year, a fine of not less than fifty
44 nor more than five hundred dollars shall be imposed.

Sec. 23. The license or registration fees herein prescribed
2 shall be for the entire fiscal year: *Provided*, That where
3 application for such license and registration is made between

4 the first day of October and the thirty-first day of December,
5 inclusive, in any fiscal year, the charge therefor shall be three-
6 fourths of the sum charged for such yearly license; and where
7 such application is made between the first day of January and
8 the thirty-first day of March, inclusive, in any fiscal year, the
9 charge therefor shall be one-half of such yearly fee; and
10 where such application is made after the thirty-first day of
11 March in any fiscal year, the charge therefor shall be one-
12 fourth of such yearly fee.

13 The registration certificate and the right to use the corre-
14 sponding registration plates shall expire at midnight of the
15 thirtieth day of June of the fiscal year for which issued.

16 In the event of the loss or inadvertent destruction of any
17 plate issued under the provisions of this article, the commis-
18 sioner shall investigate the circumstances of alleged loss or
19 destruction, and if satisfied that the loss or destruction has
20 occurred as alleged, shall issue a duplicate, or duplicates, or
21 may in its discretion issue a new set of plates with appro-
22 priate certificate of registration, at a cost not to exceed one
23 dollar. In the event of the loss or inadvertent destruction
24 of any certificate of registration issued under the provisions

25 of this article, the commissioner may issue a duplicate upon
26 receipt of affidavit of such loss at a cost not to exceed one
27 dollar.

28 Certificates of registration and corresponding registration
29 plates of vehicles operating under a permit or certificate of
30 convenience may be transferred only under the provisions of,
31 and when provided by, the rules and regulations of the com-
32 missioner.

33 Any owner or operator who shall obtain a registration cer-
34 tificate, or registration plates, or other licenses provided for in
35 this article, by misrepresentation or by any other method not
36 authorized by law, or who shall violate any of the other pro-
37 visions of this section, shall be guilty of a misdemeanor, and,
38 upon conviction thereof, shall be fined not less than ten nor
39 more than fifty dollars.

Sec. 25. No person shall operate or permit to be operated
2 on any road or highway in this state a vehicle unless he shall
3 display thereon the registration plate or plates of such vehicle,
4 as in this article provided. No person shall operate or permit
5 to be operated a vehicle registered in this state upon which
6 there is displayed the registration plate of another state, or a

7 fictitious registration plate, or the plate of another vehicle,
8 or the plate of a previous owner of the same vehicle: *Provided*,
9 That in the event of the sale of a vehicle the person purchas-
10 ing the same may, for a period of not more than ten days,
11 operate such vehicle under the registration of its previous
12 owner and display the registration plate thereof: *Provided*
13 *further*, That he shall have and display on the demand of
14 any proper officer the consent in writing of such previous
15 owner so to use such registration. Any person violating any
16 provision of this section shall be deemed guilty of a misde-
17 meanor, and, upon conviction thereof, shall be fined not less
18 than ten nor more than fifty dollars.

19 The commissioner may also, after due hearing, upon not
20 less than five days' notice in writing, sent by registered mail
21 to the address given by the owner of a vehicle when applying
22 for his registration certificate, which shall constitute a suf-
23 ficient form of notice, suspend or revoke the registration cer-
24 tificate and the registration plates issued to such person, upon
25 proof that such plates were used for a purpose or for a form
26 of transportation other than for which issued.

27 In any case where a license or registration is revoked,

28 no license or registration shall again be granted to such per-
29 son within one year from the date of the revocation of such
30 license or registration, except at the discretion of the commis-
31 sioner.

ARTICLE VII

Section 6. In the case of dealers in motor vehicles, in-
2 cluding manufacturers who sell to others than dealers, all of
3 whom are intended to be covered by this and all other pro-
4 visions of this section, a separate certificate of title either
5 of such dealer's immediate vendor, or of the dealer himself,
6 shall be required in the case of each motor vehicle in his
7 possession, and the state road commissioner shall determine
8 the form in which application for such certificate of title and
9 assignments shall be made: *Provided, however,* That no such
10 certificate shall be required in the case of new motor vehicles
11 sold by manufacturers or dealers.

12 The records of all dealers in motor vehicles shall be open
13 to the inspection of members of the department of public
14 safety and to the state road commissioner and his duly author-
15 ized employees for the purpose of ascertaining whether or not
16 the provisions of this section have been violated. Any person,

17 firm or corporation violating any of the provisions of this
18 section shall be guilty of a misdemeanor, and shall, upon con-
19 viction, be punished by a fine of not less than twenty-five
20 nor more than two hundred dollars for the first offense, and
21 for a second or subsequent offense as an additional penalty
22 the state road commissioner may revoke the registration cer-
23 tificates and registration plates issued to such dealer, and the
24 same shall not be reinstated or reissued for a period of at least
25 one year from the date of revocation thereof.

26 If any part, or parts, of this act shall be held to be un-
27 constitutional such unconstitutionality shall not affect the val-
28 idity of the remaining parts of this act.

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

Clinton L. Howard

Chairman Senate Committee

Arnold M. Tickers

Chairman House Committee

Originated in the House

Takes effect July 1st 1935 passage.

Charles D. ...

Clerk of the Senate

Geo. S. ...

Clerk of the House of Delegates

Les. E. ...

President of the Senate

John S. ...

Speaker House of Delegates.

The within is approved this the 15th

day of March, 1935.

H. S. ...

Governor.

Filed in the office of the Secretary of State of West Virginia.

MAR 15 1935

Wm. S. O'BRIEN, Secretary of State