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OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983



ENROLLED

SENATE BILL NO. 706

(By Mr. Holmes)



PASSED March 11, 1983

In Effect next day from Passage



706

ENROLLED
Senate Bill No. 706
(BY MR. HOLMES)

[Passed March 11, 1983; in effect ninety days from passage.]

AN ACT to amend and reenact section four, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to certificates of title and providing for issuance of title when the applicant has paid the required taxes and fees to a motor vehicle dealership which has filed for bankruptcy and providing further for the assignment of any claims against the motor vehicle dealership to the department of motor vehicles.

Be it enacted by the Legislature of West Virginia:

That section four, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted 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 Certificates of registration of any vehicle or registra-
2 tion plates therefor, whether original issues or duplicates,
3 shall not be issued or furnished by the department of
4 motor vehicles or any other officer charged with the duty,
5 unless the applicant therefor already has received, or
6 shall at the same time make application for and be
7 granted, an official certificate of title of the vehicle. The
8 application shall be upon a blank form to be furnished
9 by the department of motor vehicles and shall contain a
10 full description of the vehicle, which description shall
11 contain a manufacturer's serial or identification number

12 or other number as determined by the commissioner and
13 any distinguishing marks, together with a statement of
14 the applicant's title and of any liens or encumbrances
15 upon the vehicle, the names and addresses of the holders
16 of the liens and any other information as the department
17 of motor vehicles may require. The application shall be
18 signed and sworn to by the applicant. A tax is
19 hereby imposed upon the privilege of effecting the
20 certification of title of each vehicle in the amount
21 equal to five percent of the value of said mo-
22 tor vehicle at the time of such certification. If
23 the vehicle is new, the actual purchase price or
24 consideration to the purchaser thereof shall be the
25 value of the vehicle; if the vehicle is a used or
26 secondhand vehicle, the present market value at time of
27 transfer or purchase shall be considered the value thereof
28 for the purposes of this section: *Provided*, That so much
29 of the purchase price or consideration as is represented
30 by the exchange of other vehicles on which the tax herein
31 imposed has been paid by the purchaser shall be deducted
32 from the total actual price or consideration paid for the
33 vehicle, whether the same be new or secondhand; if the
34 vehicle be acquired through gift, or by any manner
35 whatsoever, unless specifically exempted in this section,
36 the present market value of the vehicle at the time of the
37 gift or transfer shall be considered the value thereof
38 for the purposes of this section. No certificate of title for
39 any vehicle shall be issued to any applicant unless the
40 applicant shall have paid to the department of motor
41 vehicles the tax imposed by this section which shall be
42 five percent of the true and actual value of said vehicle
43 whether the vehicle be acquired through purchase, by
44 gift or by any other manner whatsoever except gifts
45 between husband and wife or between parents and chil-
46 dren: *Provided, however*, That the husband or wife, or the
47 parents or children previously have paid the tax on the
48 vehicles so transferred to the state of West Virginia:
49 *Provided further*, That the department of motor vehicles
50 may issue a certificate of registration and title to an ap-
51 plicant if the applicant provides sufficient proof to the
52 department of motor vehicles that the applicant has paid

53 the taxes and fees required by this section to a motor
54 vehicle dealership that has filed bankruptcy proceedings
55 in the United States bankruptcy court and the taxes and
56 fees so required to be paid by the applicant have been
57 impounded due to the bankruptcy proceedings: *And*
58 *provided further*, That the applicant makes an affidavit
59 of the same and assigns all rights to claims for money
60 the applicant may have against the motor vehicle dealer-
61 ship to the department of motor vehicles.

62 The tax imposed by this section shall not apply to
63 vehicles to be registered as Class H vehicles, or Class S
64 vehicles, as defined in section one, article ten of this
65 chapter, which are used or to be used in interstate com-
66 merce, nor shall the tax imposed by this section apply to
67 titling of vehicles by a registered dealer of this state for
68 resale only, nor shall the tax imposed by this section
69 apply to titling of vehicles by this state or any political
70 subdivisions thereof, or by any volunteer fire department
71 or duly chartered rescue or ambulance squad organized
72 and incorporated under the laws of the state of West
73 Virginia as a nonprofit corporation for protection of life
74 or property. The total amount of revenue collected by
75 reason of this tax shall be paid into the state road fund
76 and expended by the commissioner of highways for
77 matching federal aid funds allocated for West Virginia.
78 In addition to said tax, there shall be a charge of five
79 dollars for each original certificate of title or duplicate
80 certificate of title so issued: *Provided*, That this state or
81 any political subdivision thereof, or any volunteer fire
82 department, or duly chartered rescue squad, shall be
83 exempted from payment of such charge.

84 Such certificate shall be good for the life of the vehicle,
85 so long as the same is owned or held by the original
86 holder of such certificate, and need not be renewed an-
87 nually, or any other time, except as herein provided.

88 If, by will or direct inheritance, a person becomes the
89 owner of a motor vehicle and the tax herein imposed
90 previously has been paid, to the department of motor
91 vehicles, on that vehicle, he shall not be required to pay
92 such tax.

93 A person who has paid the tax imposed by this section
94 shall not be required to pay the tax a second time for the
95 same motor vehicle, but he shall be required to pay a
96 charge of five dollars for the certificate of retitling of that
97 motor vehicle, except that the tax shall be paid by the
98 person when the title to the vehicle has been trans-
99 ferred either in this or another state from such person
100 to another person and transferred back to such person.

101 Notwithstanding any provisions of this code to the
102 contrary, the owners of trailers, semitrailers and other
103 vehicles not subject to the certificate of title tax prior
104 to the enactment of this chapter shall be subject to the
105 privilege tax imposed by this section: *Provided*, That
106 mobile homes, house trailers, modular homes and similar
107 nonmotive propelled vehicles susceptible of being moved
108 upon the highways but primarily designed for habitation
109 and occupancy, rather than for transporting persons or
110 property, or any vehicle operated on a nonprofit basis and
111 used exclusively for the transportation of mentally re-
112 tardated or physically handicapped children when the ap-
113 plication for certificate of registration for such vehicle
114 is accompanied by an affidavit stating that such vehicle
115 will be operated on a nonprofit basis and used exclusively
116 for the transportation of mentally retarded and physi-
117 cally handicapped children, shall not be subject to the tax
118 imposed by this section, but shall be taxable under the
119 provisions of articles fifteen and fifteen-a, chapter eleven
120 of this code.

121 If any person making any affidavit required under any
122 provision of this section, shall therein knowingly swear
123 falsely, or if any person shall counsel, advise, aid or abet
124 another in the commission of false swearing, he shall be
125 guilty of a misdemeanor, and, on conviction thereof, shall
126 be fined not more than one hundred dollars or be im-
127 prisoned in the county jail for a period not to exceed
128 thirty days, or in the discretion of the court be subject
129 to both such fine and imprisonment.

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

Harold E. Ecker

Chairman Senate Committee

Donald Anello

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Todd C. Nullis

Clerk of the Senate

Donald L. Hopp

Clerk of the House of Delegates

Warren R. McHaw

President of the Senate

John M. See, Jr.

Speaker House of Delegates

The within is approved this the 27 day of March, 1983.

John R. Ralston
Governor



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