WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

ENROLLED

SENATE BILL NO. 706

(By Mr. Holmes)

PASSED MARCH 11, 1983

In Effect ninety days from Passage
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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 registration plates therefor, whether original issues or duplicates, shall not be issued or furnished by the department of motor vehicles or any other officer charged with the duty, unless the applicant therefor already has received, or shall at the same time make application for and be granted, an official certificate of title of the vehicle. The application shall be upon a blank form to be furnished by the department of motor vehicles and shall contain a full description of the vehicle, which description shall contain a manufacturer's serial or identification number
or other number as determined by the commissioner and any distinguishing marks, together with a statement of the applicant's title and of any liens or encumbrances upon the vehicle, the names and addresses of the holders of the liens and any other information as the department of motor vehicles may require. The application shall be signed and sworn to by the applicant. A tax is hereby imposed upon the privilege of effecting the certification of title of each vehicle in the amount equal to five percent of the value of said motor vehicle at the time of such certification. If the vehicle is new, the actual purchase price or consideration to the purchaser thereof shall be the value of the vehicle; if the vehicle is a used or secondhand vehicle, the present market value at time of transfer or purchase shall be considered the value thereof for the purposes of this section: Provided, That so much of the purchase price or consideration as is represented by the exchange of other vehicles on which the tax herein imposed has been paid by the purchaser shall be deducted from the total actual price or consideration paid for the vehicle, whether the same be new or secondhand; if the vehicle be acquired through gift, or by any manner whatsoever, unless specifically exempted in this section, the present market value of the vehicle at the time of the gift or transfer shall be considered the value thereof for the purposes of this section. No certificate of title for any vehicle shall be issued to any applicant unless the applicant shall have paid to the department of motor vehicles the tax imposed by this section which shall be five percent of the true and actual value of said vehicle whether the vehicle be acquired through purchase, by gift or by any other manner whatsoever except gifts between husband and wife or between parents and children: Provided, however, That the husband or wife, or the parents or children previously have paid the tax on the vehicles so transferred to the state of West Virginia: Provided further, That the department of motor vehicles may issue a certificate of registration and title to an applicant if the applicant provides sufficient proof to the department of motor vehicles that the applicant has paid
the taxes and fees required by this section to a motor
vehicle dealership that has filed bankruptcy proceedings
in the United States bankruptcy court and the taxes and
fees so required to be paid by the applicant have been
impounded due to the bankruptcy proceedings: And
provided further, That the applicant makes an affidavit
of the same and assigns all rights to claims for money
the applicant may have against the motor vehicle dealer-
ship to the department of motor vehicles.

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

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

If, by will or direct inheritance, a person becomes the
owner of a motor vehicle and the tax herein imposed
previously has been paid, to the department of motor
vehicles, on that vehicle, he shall not be required to pay
such tax.
A person who has paid the tax imposed by this section shall not be required to pay the tax a second time for the same motor vehicle, but he shall be required to pay a charge of five dollars for the certificate of retitle of that motor vehicle, except that the tax shall be paid by the person when the title to the vehicle has been transferred either in this or another state from such person to another person and transferred back to such person.

Notwithstanding any provisions of this code to the contrary, the owners of trailers, semitrailers and other vehicles not subject to the certificate of title tax prior to the enactment of this chapter shall be subject to the privilege tax imposed by this section. Provided, That mobile homes, house trailers, modular homes and similar nonmotive propelled vehicles susceptible of being moved upon the highways but primarily designed for habitation and occupancy, rather than for transporting persons or property, or any vehicle operated on a nonprofit basis and used exclusively for the transportation of mentally retarded or physically handicapped children when the application for certificate of registration for such vehicle is accompanied by an affidavit stating that such vehicle will be operated on a nonprofit basis and used exclusively for the transportation of mentally retarded and physically handicapped children, shall not be subject to the tax imposed by this section, but shall be taxable under the provisions of articles fifteen and fifteen-a, chapter eleven of this code.

If any person making any affidavit required under any provision of this section, shall therein knowingly swear falsely, or if any person shall counsel, advise, aid or abet another in the commission of false swearing, he shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than one hundred dollars or be imprisoned in the county jail for a period not to exceed thirty days, or in the discretion of the court be subject to both such fine and imprisonment.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor