

No. 1686

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OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1984

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ENROLLED

Com. Sub. for
HOUSE BILL No. 1686

(By ~~Mr.~~ *Del Schifano*)

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Passed *March 10,* 1984

In Effect *Ninety Days From* Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1686
(By DELEGATE SCHIFANO)

[Passed March 10, 1984; in effect ninety days from passage.]

AN ACT to amend and reenact sections two and seven, article fourteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the motor carrier road tax; eliminating requirement that registration card be carried in vehicle; requiring a cross-check to be made by state tax commissioner after issuance by him of identification marker to a motor carrier to aid in determination of any non-compliance by such carrier; and increasing the criminal penalty for failure to obtain or display identification marker issued by the tax commissioner.

Be it enacted by the Legislature of West Virginia:

That sections two and seven, article fourteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 14A. MOTOR CARRIER ROAD TAX.

§11-14A-2. Definitions.

- 1 For purposes of this article:
- 2 (1) "Commissioner" or "tax commissioner" means the tax
- 3 commissioner of the state of West Virginia or his duly
- 4 authorized agent.

5 (2) "Gallon" means two hundred thirty-one cubic inches
6 of liquid measurement, by volume: *Provided*, That the com-
7 missioner may by rule and regulation prescribe other measure-
8 ment or definition of gallon.

9 (3) "Gasoline" means any product commonly or com-
10 mercially known as gasoline, regardless of classification, suit-
11 able for use as fuel in an internal combustion engine, except
12 special fuel as hereinafter defined.

13 (4) "Highway" means every way or place of whatever
14 nature open to the use of the public as a matter of right
15 for the purpose of vehicular travel, which is maintained by
16 this state or some taxing subdivision or unit thereof or the
17 federal government or any of its agencies.

18 (5) "Identification marker" means the decal issued by
19 the commissioner for display upon a particular motor carrier
20 and authorizing a person to operate or cause to be operated a
21 motor carrier upon any highway of the state.

22 (6) "Lease" means any oral or written contract for valu-
23 able consideration granting the use of a motor carrier.

24 (7) "Motor carrier" means any passenger vehicle which has
25 seats for more than nine passengers in addition to the driver, or
26 any road tractor, or any tractor truck, or any truck having more
27 than two axles which is operated or caused to be operated by
28 any person on any highway in this state.

29 (8) "Operation" means any operation of any motor car-
30 rier, whether loaded or empty, whether for compensation or
31 not, and whether owned by or leased to the person who
32 operates or causes to be operated such motor carrier.

33 (9) "Person" means and includes any individual, firm, part-
34 nership, limited partnership, joint adventure, association, com-
35 pany, corporation, organization, syndicate, receiver, trust or any
36 other group or combination acting as a unit, in the plural as well
37 as the singular number, and means and includes the officers,
38 directors, trustees or members of any firm, partnership, limited
39 partnership, joint adventure, association, company, corpora-
40 tion, organization, syndicate, receiver, trust or any other group
41 or combination acting as a unit, in the plural as well as the

42 singular number, unless the intention to give a more limited
43 meaning is disclosed by the context.

44 (10) "Pool operation" means any operation whereby two or
45 more taxpayers combine to operate or cause to be operated a
46 motor carrier or motor carriers upon any highway in this state.

47 (11) "Purchase" means and includes any acquisition of
48 ownership of property or of a security interest for a con-
49 sideration.

50 (12) "Road tractor" means every motor carrier designed
51 and used for drawing other vehicles and not so constructed
52 as to carry any load thereon either independently or any part
53 of the weight of a vehicle or load so drawn.

54 (13) "Sale" means any transfer, exchange, gift, barter,
55 or other disposition of any property or security interest for
56 a consideration.

57 (14) "Special fuel" means any gas or liquid, other than
58 gasoline, used or suitable for use as fuel in an internal com-
59 bustion engine. The term "special fuel" shall include products
60 commonly known as natural or casinghead gasoline but
61 shall not include any petroleum product or chemical com-
62 pound such as alcohol, industrial solvent, heavy furnace oil,
63 lubricant, etc., not commonly used nor practicably suited for
64 use as fuel in an internal combustion engine.

65 (15) "Tax" includes, within its meaning, interest, addi-
66 tions to tax and penalties, unless the intention to give it a more
67 limited meaning is disclosed by the context.

68 (16) "Taxpayer" means any person liable for any tax,
69 interest, additions to tax or penalty under the provisions of
70 this article.

71 (17) "Tractor truck" means every motor carrier designed
72 and used primarily for drawing other vehicles and not so
73 constructed as to carry a load other than a part of the weight
74 of the vehicle and load so drawn.

75 (18) "Truck" means every motor carrier designed, used
76 or maintained primarily for the transportation of property and
77 having more than two axles.

§11-14A-7. Identification markers.

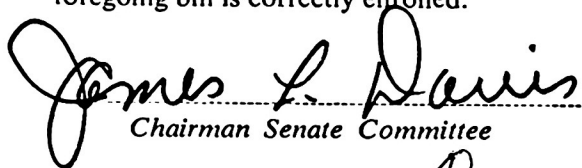
1 No person shall operate or cause to be operated in this
2 state any motor carrier subject to this article without first
3 securing from the commissioner an identification marker
4 for each such motor carrier. Each identification marker for
5 a particular motor carrier shall bear a number. The identi-
6 fication marker shall be displayed on the motor carrier as
7 required by the commissioner. The commissioner, after issu-
8 ance of any identification marker to a motor carrier, shall cause
9 an internal cross-check to be made in his office as to any
10 state tax which he administers, to, in aid in determination
11 of any noncompliance in respect of failure to file returns
12 or payment of tax liabilities. The identification markers
13 herein provided for shall be valid for the period of one year,
14 ending June thirtieth of each year. A fee of five dollars shall
15 be paid to the commissioner for issuing each identification
16 marker. All tax or reports due under this article shall be paid
17 or reports filed before the issuance of a new identification
18 marker. Failure by a taxpayer to file the returns or pay the
19 taxes imposed by this article shall give cause to the commis-
20 sioner to revoke or refuse to renew the identification marker
21 previously issued.

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22 In an emergency, the commissioner upon request may
23 authorize, in writing, a motor carrier to be operated without
24 an identification marker for not more than ten days.

25 Upon conviction for failure to obtain and display the identi-
26 fication marker on each motor carrier, the person which oper-
27 ates or causes to be operated said motor carrier shall be fined
28 not less than fifty nor more than five hundred dollars per day;
29 and each day of such failure shall constitute a separate of-
30 fense.


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


Chairman Senate Committee



Chairman House Committee


Originating in the House.

Takes 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 30
day of March, 1984.


Governor

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