WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984

ENROLLED
Com. Sub. for
HOUSE BILL No. 1686

(By Mr. Del. Schifano)

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.


1 For purposes of this article:

2 (1) “Commissioner” or “tax commissioner” means the tax commissioner of the state of West Virginia or his duly authorized agent.
(2) "Gallon" means two hundred thirty-one cubic inches of liquid measurement, by volume. Provided, That the commissioner may by rule and regulation prescribe other measurement or definition of gallon.

(3) "Gasoline" means any product commonly or commercially known as gasoline, regardless of classification, suitable for use as fuel in an internal combustion engine, except special fuel as hereinafter defined.

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

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

(6) "Lease" means any oral or written contract for valuable consideration granting the use of a motor carrier.

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

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

(9) "Person" means and includes any individual, firm, partnership, limited partnership, joint adventure, association, company, corporation, organization, syndicate, receiver, trust or any other group or combination acting as a unit, in the plural as well as the singular number, and means and includes the officers, directors, trustees or members of any firm, partnership, limited partnership, joint adventure, association, company, corporation, organization, syndicate, receiver, trust or any other group or combination acting as a unit, in the plural as well as the
singular number, unless the intention to give a more limited meaning is disclosed by the context.

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

(11) "Purchase" means and includes any acquisition of ownership of property or of a security interest for a consideration.

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

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

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

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

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

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

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

No person shall operate or cause to be operated in this state any motor carrier subject to this article without first securing from the commissioner an identification marker for each such motor carrier. Each identification marker for a particular motor carrier shall bear a number. The identification marker shall be displayed on the motor carrier as required by the commissioner. The commissioner, after issuance of any identification marker to a motor carrier, shall cause an internal cross-check to be made in his office as to any state tax which he administers, in aid in determination of any noncompliance in respect of failure to file returns or payment of tax liabilities. The identification markers herein provided for shall be valid for the period of one year, ending June thirtieth of each year. A fee of five dollars shall be paid to the commissioner for issuing each identification marker. All tax or reports due under this article shall be paid or reports filed before the issuance of a new identification marker. Failure by a taxpayer to file the returns or pay the taxes imposed by this article shall give cause to the commissioner to revoke or refuse to renew the identification marker previously issued.

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

Upon conviction for failure to obtain and display the identification marker on each motor carrier, the person which operates or causes to be operated said motor carrier shall be fined not less than fifty nor more than five hundred dollars per day; and each day of such failure shall constitute a separate offense.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Donald Finello
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

J. E. Walls
Clerk of the Senate

Donald L. Hupp
Clerk of the House of Delegates

Warren R. McQuade
President of the Senate

M. E., Jr.
Speaker House of Delegates

The within bill is approved this the 30th day of March, 1984.

Governor