WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990

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ENROLLED

Com. Sub. for
HOUSE BILL No. 4662

(By Mr. Speaker, Mr. Chambers, and Del. Norwason)

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Passed ................... March 19, 1990

In Effect ............. May 1, 1990
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; and to amend and reenact section three, article ten of said chapter, all relating to the certification of title tax and the registration fee for certain classes of vehicles; exempting certain classes of vehicles over fifty-five thousand pounds from the certification of title tax; and providing a new registration fee for vehicles over fifty-five thousand pounds.

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; and that section three, article ten of said chapter be amended and reenacted, all 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 (a) 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 at the same time makes application for and is 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.

(b) 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 is the value of the vehicle; if the vehicle is a used or secondhand vehicle, the present market value at time of transfer or purchase is 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 is 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 is 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 has paid to the department of motor vehicles the tax imposed by this section which is five percent of the true and actual value of said vehicle whether the vehicle is 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 bank-
ruptcy 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 dealership to the department
of motor vehicles.

The tax imposed by this section does 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
commerce. Nor does the tax imposed by this section
apply to the titling of Class B, Class K or Class E
vehicles registered at a gross weight of fifty-five
thousand pounds or more, or to the titling of Class C or
Class L semitrailers, full trailers, pole trailers, and
converter gear: Provided, That, if an owner of a vehicle
has previously titled the vehicle at a declared gross
weight of fifty-five thousand pounds or more and title
was issued without the payment of the tax imposed by
this section, then before the owner may obtain registra-
tion for the vehicle at a gross weight less than fifty-five
thousand pounds, the owner must surrender to the
commissioner the exempted registration, the exempted
certificate of title, and pay the tax imposed by this
section based upon the current market value of the
vehicle: Provided, however, That notwithstanding the
provisions of section nine, article fifteen, chapter eleven
of this code, the exemption from tax under this section
for Class B, Class K or Class E vehicles in excess of fifty-
five thousand pounds and Class C or Class L semitrail-
ers, full trailers, pole trailers and convertor gear shall
not subject the sale or purchase of said vehicles to the
consumer sales tax. The tax imposed by this section does
not apply to titling of vehicles by a registered dealer of
this state for resale only, nor does the tax imposed by
this section apply to titling of vehicles by this state or
any political subdivision 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 funds allocated for
West Virginia. In addition to the tax, there shall be a
charge of five dollars for each original certificate of title
or duplicate certificate of title so issued: Provided,
further, That this state or any political subdivision
thereof, or any volunteer fire department, or duly
chartered rescue squad, is exempt from payment of such
charge.

Such certificate is 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 annually,
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 or she is not required to pay
such tax.

A person who has paid the tax imposed by this section
is not required to pay the tax a second time for the same
motor vehicle, but is 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.

(c) Notwithstanding any provisions of this code to the
contrary, the owners of trailers, semitrailers, recrea-
section: Provided, That the certification of title of any recreational vehicle owned by the applicant on the thirtieth day of June, one thousand nine hundred eighty-nine, is not subject to the tax imposed by this section: Provided, however, That mobile homes, house trailers, modular homes and similar nonmotive propelled vehicles, except recreational 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, are not subject to the tax imposed by this section, but are taxable under the provisions of articles fifteen and fifteen-a, chapter eleven of this code.

(d) Any person making any affidavit required under any provision of this section, who knowingly swears falsely, or any person who counsels, advises, aids or abets another in the commission of false swearing, is on the first offense guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five hundred dollars or be imprisoned in the county jail for a period not to exceed six months, or, in the discretion of the court, both fined and imprisoned. For a second or any subsequent conviction within five years any such person is guilty of a felony, and, upon conviction thereof, shall be fined not more than five thousand dollars or be imprisoned in the penitentiary for not less than one year nor more than five years or, in the discretion of the court, fined and imprisoned.

ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.

§17A-10-3. Registration fees for vehicles equipped with pneumatic tires.
The following registration fees for the classes indicated shall be paid annually to the department for the registration of vehicles subject to registration hereunder when equipped with pneumatic tires:

Class A. The registration fee for all motor vehicles of this class is as follows:

1. For motor vehicles of a weight of three thousand pounds or less—twenty-five dollars.
2. For motor vehicles of a weight of three thousand and one pounds to four thousand pounds—thirty dollars.
3. For motor vehicles of a weight in excess of four thousand pounds—thirty-six dollars.
4. For motor vehicles designed as trucks with declared gross weights of four thousand pounds or less—twenty-five dollars.
5. For motor vehicles designed as trucks with declared gross weights of four thousand and one pounds to eight thousand pounds—thirty dollars.

For the purpose of determining the weight, the actual weight of the vehicle shall be taken: Provided, That for vehicles owned by churches, or by trustees for churches, which vehicles are regularly used for transporting parishioners to and from church services, no license fee shall be charged, but notwithstanding such exemption, the certificate of registration and license plates shall be obtained the same as other cards and plates under this article.

Class B, Class E and Class K. The registration fee for all motor vehicles of these three classes is as follows:

1. For declared gross weights of eight thousand and one pounds to sixteen thousand pounds—twenty-eight dollars plus five dollars for each one thousand pounds or fraction thereof that the gross weight of such vehicle or combination of vehicles exceeds eight thousand pounds.
2. For declared gross weights greater than sixteen thousand pounds, but less than fifty-five thousand
pounds—seventy-eight dollars and fifty cents plus ten
dollars for each one thousand pounds or fraction thereof
that the gross weight of such vehicle or combination of
vehicles exceeds sixteen thousand pounds.

(3) For declared gross weights of fifty-five thousand
pounds or more—seven hundred thirty-seven dollars and
fifty cents plus fifteen dollars and seventy-five cents for
each one thousand pounds or fraction thereof that the
gross weight of such vehicle or combination of vehicles
exceeds fifty-five thousand pounds.

Class C and Class L. The registration fee for all
vehicles of these two classes is seventeen dollars and
fifty cents except that semitrailers, full trailers, pole
trailers, and convertor gear registered as Class C and
Class L may be registered for a period of ten years at
a fee of one hundred dollars.

Class G. The registration fee for each motorcycle is
eight dollars.

Class H. The registration fee for all vehicles for this
class operating entirely within the state is five dollars;
and for vehicles engaged in interstate transportation of
persons, the registration fee is the amount of the fees
provided by this section for Class B, Class E and Class
K reduced by the amount that the mileage of such
vehicles operated in states other than West Virginia
bears to the total mileage operated by such vehicles in
all states under a formula to be established by the
department of motor vehicles.

Class J. The registration fee for all motor vehicles of
this class is eighty-five dollars. Ambulances and hearses
used exclusively as such are exempt from the above
special fees.

Class R. The registration fee for all vehicles of this
class is twelve dollars.

Class S. The registration fee for all vehicles of this
class is seventeen dollars and fifty cents.

Class T. The registration fee for all vehicles of this
class is eight dollars.
Class U. The registration fee for all vehicles of this class is fifty-seven dollars and fifty cents.

Class Farm Truck. The registration fee for all motor vehicles of this class is as follows: (1) For farm trucks of declared gross weights of eight thousand and one pound to sixteen thousand pounds—thirty dollars; (2) for farm trucks of declared gross weights of sixteen thousand and one pounds to twenty-two thousand pounds—sixty dollars; (3) for farm trucks of declared gross weights of twenty-two thousand and one pounds to twenty-eight thousand pounds—ninety dollars; (4) for farm trucks of declared gross weights of twenty-eight thousand and one pounds to thirty-four thousand pounds—one hundred fifteen dollars; (5) for farm trucks of declared gross weights of thirty-four thousand and one pounds to forty-four thousand pounds—one hundred sixty dollars; (6) for farm trucks of declared gross weights of forty-four thousand and one pounds to fifty-four thousand pounds—two hundred five dollars; and (7) for farm trucks of declared gross weights of fifty-four thousand pounds to sixty-four thousand pounds—two hundred fifty dollars.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Frederick T. Parks
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect May 1, 1990.

Harold E. Finkbeiner
Clerk of the Senate

Donald A. Kopp
Clerk of the House of Delegates

Verne F. Sanders
President of the Senate

Charles L. Bald
Speaker of the House of Delegates

The within is approved this the 30th day of March, 1990.

Wyman C. Carpenter
Governor
PRESENTED TO THE
GOVERNOR
Date 1/19/40
Time 10:00 pm