

HB # 4465

RECEIVED
1994 MAR 30 PM 3:03
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

Com. Sub. For

HOUSE BILL No. 4465

(By Delegates *S. L. White, Beane, Hounnigan,
Faircloth, Rowe, Gallagher and Kiss*)



Passed March 11, 1994

In Effect 90 Days From Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4465

(By DELEGATES L. WHITE, BEANE, HOUVOURAS,
FAIRCLOTH, ROWE, GALLAGHER AND KISS)

[Passed March 11, 1994; 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 registration for motor vehicles; privilege tax on effecting certificate of title; requirements; exceptions for certain classes of vehicles; eliminating privilege tax on leased vehicles; imposing a privilege tax upon the monthly payments for leased vehicles; payments to the division of motor vehicles; additional charges; duration of certificate of title; exceptions for certain types of vehicles; affidavits; criminal penalties for false affidavits; and exceptions for military personnel.

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; exceptions;
privilege tax on payments for leased vehi-**

**cles; revenue allocations; transfers; penalty
for false swearing.**

1 (a) Certificates of registration of any vehicle or
2 registration plates therefor, whether original issues or
3 duplicates, shall not be issued or furnished by the
4 division of motor vehicles or any other officer charged
5 with the duty, unless the applicant therefor already has
6 received, or at the same time makes application for and
7 is granted, an official certificate of title of the vehicle.
8 The application shall be upon a blank form to be
9 furnished by the division of motor vehicles and shall
10 contain a full description of the vehicle, which descrip-
11 tion shall contain a manufacturer's serial or identifica-
12 tion number or other number as determined by the
13 commissioner and any distinguishing marks, together
14 with a statement of the applicant's title and of any liens
15 or encumbrances upon the vehicle, the names and
16 addresses of the holders of the liens and any other
17 information as the division of motor vehicles may
18 require. The application shall be signed and sworn to
19 by the applicant.

20 (b) A tax is hereby imposed upon the privilege of
21 effecting the certification of title of each vehicle in the
22 amount equal to five percent of the value of the motor
23 vehicle at the time of the certification, to be assessed as
24 follows:

25 (1) If the vehicle is new, the actual purchase price or
26 consideration to the purchaser thereof is the value of the
27 vehicle; if the vehicle is a used or secondhand vehicle,
28 the present market value at time of transfer or purchase
29 is the value thereof for the purposes of this section:
30 *Provided,* That so much of the purchase price or
31 consideration as is represented by the exchange of other
32 vehicles on which the tax imposed by this section has
33 been paid by the purchaser shall be deducted from the
34 total actual price or consideration paid for the vehicle,
35 whether the same be new or secondhand; if the vehicle
36 is acquired through gift, or by any manner whatsoever,
37 unless specifically exempted in this section, the present
38 market value of the vehicle at the time of the gift or
39 transfer is the value thereof for the purposes of this

40 section.

41 (2) No certificate of title for any vehicle shall be
42 issued to any applicant unless the applicant has paid to
43 the division of motor vehicles the tax imposed by this
44 section which is five percent of the true and actual value
45 of the vehicle whether the vehicle is acquired through
46 purchase, by gift or by any other manner whatsoever
47 except gifts between husband and wife or between
48 parents and children: *Provided*, That the husband or
49 wife, or the parents or children previously have paid the
50 tax on the vehicles transferred to the state of West
51 Virginia.

52 (3) The division of motor vehicles may issue a certifi-
53 cate of registration and title to an applicant if the
54 applicant provides sufficient proof to the division of
55 motor vehicles that the applicant has paid the taxes and
56 fees required by this section to a motor vehicle dealer-
57 ship that has gone out of business or has filed bank-
58 ruptcy proceedings in the United States bankruptcy
59 court and the taxes and fees so required to be paid by
60 the applicant have not been sent to the division by the
61 motor vehicle dealership or have been impounded due
62 to the bankruptcy proceedings: *Provided*, That the
63 applicant makes an affidavit of the same and assigns all
64 rights to claims for money the applicant may have
65 against the motor vehicle dealership to the division of
66 motor vehicles.

67 (4) The division of motor vehicles shall issue a
68 certificate of registration and title to an applicant
69 without payment of the tax imposed by this section if
70 the applicant is a corporation, partnership or limited
71 liability company transferring the vehicle to another
72 corporation, partnership or limited liability company
73 when the entities involved in the transfer are members
74 of the same controlled group and the transferring entity
75 has previously paid the tax on the vehicle transferred.
76 For the purposes of this section, control means owner-
77 ship, directly or indirectly, of stock or equity interests
78 possessing fifty percent or more of the total combined
79 voting power of all classes of the stock of a corporation
80 or equity interests of a partnership or limited liability

81 company entitled to vote or ownership, directly or
82 indirectly, of stock or equity interests possessing fifty
83 percent or more of the value of the corporation,
84 partnership or limited liability company.

85 (5) The tax imposed by this section does not apply to
86 vehicles to be registered as Class H vehicles, or Class
87 S vehicles, as defined in section one, article ten of this
88 chapter, which are used or to be used in interstate
89 commerce. Nor does the tax imposed by this section
90 apply to the titling of Class B, Class K or Class E
91 vehicles registered at a gross weight of fifty-five
92 thousand pounds or more, or to the titling of Class C or
93 Class L semitrailers, full trailers, pole trailers and
94 converter gear: *Provided*, That if an owner of a vehicle
95 has previously titled the vehicle at a declared gross
96 weight of fifty-five thousand pounds or more and the
97 title was issued without the payment of the tax imposed
98 by this section, then before the owner may obtain
99 registration for the vehicle at a gross weight less than
100 fifty-five thousand pounds, the owner must surrender to
101 the commissioner the exempted registration, the exemp-
102 ted certificate of title, and pay the tax imposed by this
103 section based upon the current market value of the
104 vehicle: *Provided, however*, That notwithstanding the
105 provisions of section nine, article fifteen, chapter eleven
106 of this code, the exemption from tax under this section
107 for Class B, Class K or Class E vehicles in excess of fifty-
108 five thousand pounds and Class C or Class L semitrail-
109 ers, full trailers, pole trailers and converter gear shall
110 not subject the sale or purchase of the vehicles to the
111 consumers sales tax.

112 (6) The tax imposed by this section does not apply to
113 titling of vehicles leased by residents of West Virginia.
114 A tax is hereby imposed upon the monthly payments for
115 the lease of any motor vehicle leased by a resident of
116 West Virginia, which tax is equal to five percent of the
117 amount of the monthly payment, applied to each
118 payment, and continuing for the entire term of the
119 initial lease period. The tax shall be remitted to the
120 division of motor vehicles on a monthly basis by the
121 lessor of the vehicle.

122 (7) The tax imposed by this section does not apply to
123 titling of vehicles by a registered dealer of this state for
124 resale only, nor does the tax imposed by this section
125 apply to titling of vehicles by this state or any political
126 subdivision thereof, or by any volunteer fire department
127 or duly chartered rescue or ambulance squad organized
128 and incorporated under the laws of the state of West
129 Virginia as a nonprofit corporation for protection of life
130 or property. The total amount of revenue collected by
131 reason of this tax shall be paid into the state road fund
132 and expended by the commissioner of highways for
133 matching federal funds allocated for West Virginia. In
134 addition to the tax, there is a charge of five dollars for
135 each original certificate of title or duplicate certificate
136 of title so issued: *Provided*, That this state or any
137 political subdivision thereof, or any volunteer fire
138 department, or duly chartered rescue squad, is exempt
139 from payment of the charge.

140 (8) The certificate is good for the life of the vehicle,
141 so long as the same is owned or held by the original
142 holder of the certificate, and need not be renewed
143 annually, or any other time, except as provided in this
144 section.

145 (9) If, by will or direct inheritance, a person becomes
146 the owner of a motor vehicle and the tax imposed by this
147 section previously has been paid, to the division of motor
148 vehicles, on that vehicle, he or she is not required to pay
149 the tax.

150 (10) A person who has paid the tax imposed by this
151 section is not required to pay the tax a second time for
152 the same motor vehicle, but is required to pay a charge
153 of five dollars for the certificate of retitle of that motor
154 vehicle, except that the tax shall be paid by the person
155 when the title to the vehicle has been transferred either
156 in this or another state from such person to another
157 person and transferred back to such person.

158 (c) Notwithstanding any provisions of this code to the
159 contrary, the owners of trailers, semitrailers, recrea-
160 tional vehicles and other vehicles not subject to the
161 certificate of title tax prior to the enactment of this

162 chapter are subject to the privilege tax imposed by this
163 section: *Provided*, That the certification of title of any
164 recreational vehicle owned by the applicant on the
165 thirtieth day of June, one thousand nine hundred eighty-
166 nine, is not subject to the tax imposed by this section:
167 *Provided, however*, That mobile homes, house trailers,
168 modular homes and similar nonmotive propelled vehi-
169 cles, except recreational vehicles, susceptible of being
170 moved upon the highways but primarily designed for
171 habitation and occupancy, rather than for transporting
172 persons or property, or any vehicle operated on a
173 nonprofit basis and used exclusively for the transporta-
174 tion of mentally retarded or physically handicapped
175 children when the application for certificate of registra-
176 tion for the vehicle is accompanied by an affidavit
177 stating that the vehicle will be operated on a nonprofit
178 basis and used exclusively for the transportation of
179 mentally retarded and physically handicapped children,
180 are not subject to the tax imposed by this section, but
181 are taxable under the provisions of articles fifteen and
182 fifteen-a, chapter eleven of this code.

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

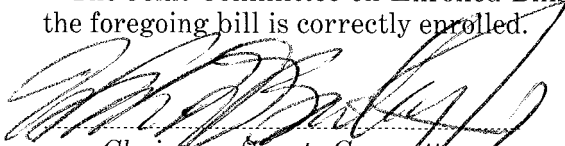
198 (e) Notwithstanding any other provisions of this
199 section, any person in the military stationed outside
200 West Virginia, or his or her dependents who possess a
201 motor vehicle with valid registration, are exempt from
202 the provisions of this article for a period of nine months

203 from the date that that person returns to this state or
204 the date his or her dependent returns to this state,
205 whichever is later.



Enr. Com. Sub. for H. B. 4465] 8

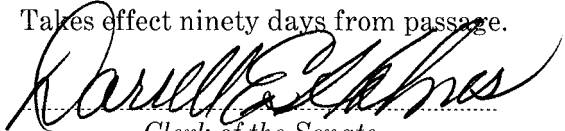
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee


Ernest C. Moore
Chairman House Committee


Originating in the House.

Takes effect ninety days from passage.

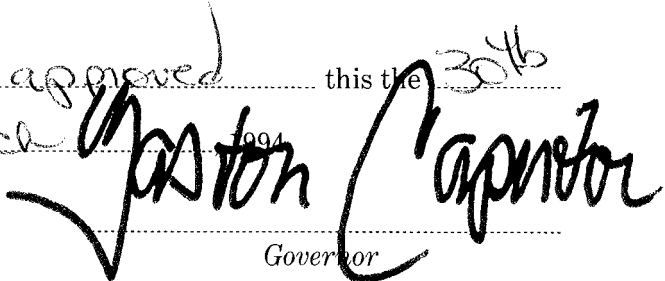

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 30th
day of March 1994


Governor

PRESENTED TO THE

GOVERNOR

Date 3/25/94

Time 10:15 am