WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1997

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ENROLLED

HOUSE BILL No. _2496_

(By Delegate _____________ Warner _____________ )

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Passed _______________ April 12, _______________ 1997

In Effect _______________ From _______________ Passage
AN ACT to amend and reenact section one, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section seven-a, all relating to tax assessments of commercial motor vehicles; expanding coverage for imposition of an ad valorem tax on public service businesses to include commercial vehicles subject to proportional registration agreements involving other states by virtue of engaging in interstate commerce, and those involved solely in intrastate commerce; and setting forth a formula to calculate the tax.

Be it enacted by the Legislature of West Virginia:

That section one, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section seven-a, all to read as follows:

ARTICLE 6. ASSESSMENT OF PUBLIC SERVICE BUSINESSES.
§11-6-1. Returns of property to board of public works.
(a) On or before the first day of May in each year a return in writing shall be filed with the board of public works: (1) By the owner or operator of every railroad, wholly or in part within this state; (2) by the owner or operator of every railroad bridge upon which a separate toll or fare is charged; (3) by the owner or operator of every car or line of cars used upon any railroad within the state for transportation or accommodation of freight or passengers, other than the owners or operators as may own or operate a railroad within the state; (4) by the owner or operator of every express company or express line, wholly or in part within this state, used for the transportation by steam or otherwise of freight and other articles of commerce; (5) by the owner or operator of every pipeline, wholly or in part within this state, used for the transportation of oil or gas or water, whether the oil or gas or water be owned by the owner or operator or not, or for the transmission of electrical or other power, or the transmission of steam or heat and power or of articles by pneumatic or other power; (6) by the owner or operator of every telegraph or telephone line, wholly or in part within this state, except private lines not operated for compensation; (7) by the owner and operator of every gas company and electric lighting company furnishing gas or electricity for lighting, heating or power purposes; (8) by the owner or operator of hydroelectric companies for the generation and transmission of light, heat or power; (9) by the owner or operator of water companies furnishing or distributing water; (10) by the owner or operator of all other public service corporations or persons engaged in public service business whose property is located, wholly or in part, within this state; and (11) on or before the first day of May, one thousand nine hundred ninety-eight, and on or before the first day of May, each year thereafter, by the owner or operator of every truck or semitrailer used as a commercial motor vehicle in the transportation of property either exclusively within this state or within and without this state by commercial motor vehicles registered under a proportional registration agreement pursuant to the provisions of section ten-a, article two, chapter seventeen-a of this code.

For the purposes of this article, commercial motor vehicle is defined as those vehicles registered under a proportional
registration agreement pursuant to the provisions of section ten-a, article two, chapter seventeen-a of this code and vehicles that would otherwise be subject to registration under a proportional registration agreement as provided in section ten-a except that the vehicle is only engaged in intrastate commerce. The procedure for determining the valuation thereof is exclusively provided for under section seven-a of this article.

(b) The words "owner or operator," as applied herein to railroad companies, shall include every railroad company incorporated by or under the laws of this state for the purpose of constructing and operating a railroad, or of operating part of a railroad within this state, whether the railroad or any part of it be in operation or not; and shall also include every other railroad company, or persons or associations of persons, owning or operating a railroad or part of a railroad in this state on which freight or passengers, or both, are carried for compensation. The word "railroad," as used herein includes every street, city, suburban or electric or other railroad or railway.

(c) The words "owner or operator," as applied herein to express companies, shall include every express company incorporated by or under the laws of this state, or doing business in this state, whether incorporated or not, and any person or association of persons, owning or operating any express company or express line upon any railroad or otherwise, doing business partly or wholly within this state.

(d) The words "owner or operator," as applied herein to trucks or semitrailers used as a commercial motor vehicle in the transportation of property, shall include every company incorporated by or under the laws of this state, or doing business in this state, whether incorporated or not, and any person or association of persons, owning or operating any truck or semitrailer used as a commercial motor vehicle in the transportation of property doing business partly or wholly within this state.

(e) The return shall be signed and sworn to by the owner or operator if a natural person, or, if the owner or operator shall be a corporation, shall be signed and sworn
Enr. Com. Sub. for H. B. 2496] 4

§11-6-7a. Same - Commercial motor vehicles; calculation of tax.

(a) In the case of commercial motor vehicles used for the transportation of property exclusively within this state or commercial vehicles used for the transportation of property both within and without this state which are subject to being registered under a proportional registration agreement pursuant to the provisions of section ten-a, article two, chapter seventeen-a of this code, by owners or operators, the return shall show for each commercial vehicle operator the total miles driven in West Virginia and the total miles driven in any other states as reported in the most recent taxable year to the division of motor vehicles pursuant to any proportional registration agreement on file therewith. The return shall, additionally, show the gross capital cost of the commercial vehicle to the purchaser thereof and the year the purchaser acquired the commercial vehicle. In the case of commercial motor vehicles used for the transportation of property exclusively within this state the return shall only show the gross capital cost of the commercial vehicle to the purchaser thereof and the year the commercial vehicle was acquired by the purchaser thereof.

(b) Ad valorem taxes provided for in this chapter shall, notwithstanding the provisions of section five, article one-c of this chapter, be determined as follows: (1) The gross capital cost of a commercial vehicle shall be multiplied by a percentage factor representing the remain-
der of the vehicle's value after depreciation according to a
depreciation schedule established by the tax commis-
er, which calculation shall yield the appraised value of the
vehicle; (2) for a trailer, semitrailer or road tractor regis-
tered in this state as part of a fleet registered under any
proportional registration agreement under the provisions
of section ten-a, article two, chapter seventeen-a of this
code, the appraised value shall be multiplied by the frac-
tion comprised of a numerator representing the total miles
driven in West Virginia (regardless whether property is
being transported for commercial purposes) in the taxable
year and a denominator representing the total miles driven
in the taxable year by the commercial motor vehicle oper-
ator during times property was being transported for com-
mercial purposes, as reported to the division of motor
vehicles pursuant to any proportional registration agree-
ment on file therewith to obtain the apportioned value,
which apportioned value shall be multiplied by sixty per-
cent to yield the assessed value which shall be multiplied
by the applicable rate of tax; (3) for a trailer, semitrailer
or road tractor operated exclusively in this state and which
is not a part of a fleet registered under any proportional
registration agreement or is not registered under the provi-
sions of section ten-a, article two, chapter seventeen-a of
this code, the tax shall be determined by multiplying the
appraised value by sixty percent to obtain the assessed
value which shall be multiplied by the tax rate to obtain
the amount of the tax.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Pamela Schoonover  
Chairman Senate Committee

Nick Fantasca  
Chairman House Committee

Originating in the House.

Takes effect from passage.

Darrell Hoeller  
Clerk of the Senate

Jerry D. Say  
Clerk of the House of Delegates

E. Byron Tonolli  
President of the Senate

Speaker of the House of Delegates

The within is approved this the 2d day of May, 1997.

Governor
PRESENTED TO THE
GOVERNOR
Date 4/25/47
Time 2:06 P.M.