WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997

ENROLLED

Committee Substitute for Senate Bill No. 74

(By Senator Dittmar)

PASSED March 28, 1997

In Effect NINETY Days From Passage
ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 74

(SENATOR DITTMAR, original sponsor)

[Passed March 28, 1997; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article one, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections two and four, article three of said chapter; to amend and reenact section one, article five of said chapter; and to amend and reenact sections one and three, article ten of said chapter, all relating to definition, titling, registration and taxation of special mobile equipment and mixed use equipment.

Be it enacted by the Legislature of West Virginia:

That section one, article one, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections two and four,
article three of said chapter be amended and reenacted; that
section one, article five of said chapter be amended and reen­
acted; and that sections one and three, article ten of said chapter
be amended and reenacted, all to read as follows:

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17A-1-1. Definitions.

1 Except as otherwise provided in this chapter the follow­
ing words and phrases when used in this chapter shall
2 have the meanings respectively ascribed to them in this
3 article:
4
5 (a) "Vehicle" means every device in, upon or by which
6 any person or property is or may be transported or drawn
7 upon a highway, excepting devices moved by human
8 power or used exclusively upon stationary rails or tracks.
9
10 (b) "Motor vehicle" means every vehicle which is
11 self-propelled and every vehicle which is propelled by
12 electric power obtained from overhead trolley wires, but
13 not operated upon rails.
14
15 (c) "Motorcycle" means every motor vehicle, including
16 motor-driven cycles and mopeds as defined in sections five
17 and five-a, article one, chapter seventeen-c of this code,
18 having a saddle for the use of the rider and designed to
19 travel on not more than three wheels in contact with the
20 ground but excluding a tractor.
21
22 (d) "School bus" means every motor vehicle owned by a
23 public governmental agency and operated for the trans­
24 portation of children to or from school or privately owned
25 and operated for compensation for the transportation of
26 children to or from school.
27
28 (e) "Bus" means every motor vehicle designed for
29 carrying more than seven passengers and used for the
30 transportation of persons; and every motor vehicle, other
31 than a taxicab, designed and used for the transportation
32 of persons for compensation.
33
34 (f) "Truck tractor" means every motor vehicle designed
35 and used primarily for drawing other vehicles and not so
36 constructed as to carry a load other than a part of the
weight of the vehicle and load so drawn.

(g) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

(h) "Road tractor" means every motor vehicle designed, used or maintained 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.

(i) "Truck" means every motor vehicle designed, used or maintained primarily for the transportation of property.

(j) "Trailer" means every vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle but excluding recreational vehicles.

(k) "Semitrailer" means every vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

(l) "Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(m) "Specially constructed vehicles" means every vehicle of a type required to be registered hereunder not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.

(n) "Reconstructed vehicle" means every vehicle of a type required to be registered hereunder materially
altered from its original construction by the removal, addition or substitution of essential parts, new or used.

(o) "Essential parts" means all integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation.

(p) "Foreign vehicle" means every vehicle of a type required to be registered hereunder brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

(q) "Implement of husbandry" means every vehicle which is designed for or adapted to agricultural purposes and used by the owner thereof primarily in the conduct of his agricultural operations, including, but not limited to, trucks used for spraying trees and plants: Provided, That said vehicle shall not be let for hire at any time.

(r) "Special mobile equipment" means every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including, without limitation, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, graders, rollers, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, rock-drilling equipment and earth-moving equipment. The foregoing enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this subdivision.

(s) "Pneumatic tire" means every tire in which compressed air is designed to support the load.

(t) "Solid tire" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(u) "Metal tire" means every tire the surface of which in
contact with the highway is wholly or partly of metal or
other hard, nonresilient material.

(v) "Commissioner" means the commissioner of motor
vehicles of this state.

(w) "Department" means the department of motor
vehicles of this state acting directly or through its duly
authorized officers and agents.

(x) "Person" means every natural person, firm,
copartnership, association or corporation.

(y) "Owner" means a person who holds the legal title to
a vehicle, or in the event a vehicle is the subject of an
agreement for the conditional sale or lease thereof with
the right of purchase upon performance of the conditions
stated in the agreement and with an immediate right of
possession vested in the conditional vendee or lessee, or in
the event a mortgagor of a vehicle is entitled to possession,
then such conditional vendee or lessee or mortgagor shall
be deemed the owner for the purpose of this chapter.

(z) "Nonresident" means every person who is not a
resident of this state.

(aa) "Dealer" or "dealers" is a general term meaning,
depending upon the context in which used, either a new
motor vehicle dealer, used motor vehicle dealer, factory-
built home dealer, recreational vehicle dealer, trailer
dealer or motorcycle dealer, as defined in section one.
article six of this chapter, or all of such dealers or a
combination thereof, and in some instances a new motor
vehicle dealer or dealers in another state.

(bb) "Registered dealer" or "registered dealers" is a
general term meaning, depending upon the context in
which used, either a new motor vehicle dealer, used motor
vehicle dealer, house trailer dealer, trailer dealer, recre-
ational vehicle dealer or motorcycle dealer, or all of such
dealers or a combination thereof, licensed under the
provisions of article six of this chapter.

(cc) "Licensed dealer" or "licensed dealers" is a general
term meaning, depending upon the context in which used,
either a new motor vehicle dealer, used motor vehicle
dealer, house trailer dealer, trailer dealer, recreational
vehicle dealer or motorcycle dealer, or all of such dealers
or a combination thereof, licensed under the provisions of
article six of this chapter.

(dd) “Transporter” means every person engaged in the
business of delivering vehicles of a type required to be
registered hereunder from a manufacturing, assembling or
distributing plant to dealers or sales agents of a manufac-
turer.

(ee) “Manufacturer” means every person engaged in the
business of constructing or assembling vehicles of a type
required to be registered hereunder at a place of business
in this state which is actually occupied either continuously
or at regular periods by such manufacturer where his
books and records are kept and a large share of his
business is transacted.

(ff) “Street” or “highway” means the entire width
between boundary lines of every way publicly maintained
when any part thereof is open to the use of the public for
purposes of vehicular travel.

(jj) “Travel trailer” means every vehicle, mounted on
wheels, designed to provide temporary living quarters for
recreational, camping or travel use of such size or weight
as not to require special highway movement permits when
towed by a motor vehicle and of gross trailer area less
than four hundred square feet.

(kk) "Fold down camping trailer" means every vehicle
consisting of a portable unit mounted on wheels and
constructed with collapsible partial sidewalls which fold
for towing by another vehicle and unfold at the camp site
to provide temporary living quarters for recreational,
camping or travel use.

(II) "Motor home" means every vehicle, designed to
provide temporary living quarters, built into an integral
part of or permanently attached to a self-propelled motor
vehicle, chassis or van including: (1) Type A motor home
built on an incomplete truck chassis with the truck cab
constructed by the second stage manufacturer; (2) Type B
motor home consisting of a van-type vehicle which has
been altered to provide temporary living quarters; and (3)
Type C motor home built on an incomplete van or truck
chassis with a cab constructed by the chassis manufac-
turer.

(mm) "Snowmobile" means a self-propelled vehicle
intended for travel primarily on snow and driven by a
track or tracks in contact with the snow and steered by a
ski or skis in contact with the snow.

(nn) "Recreational vehicle" means a motorboat, motor-
boat trailer, all-terrain vehicle, travel trailer, fold down
camping trailer, motor home or snowmobile.

(oo) Mobile equipment means every self-propelled
vehicle not designed or used primarily for the transporta-
tion of persons or property over the highway but which
may infrequently or incidentally travel over the highway
among job sites, equipment storage sites or repair sites,
including farm equipment, implements of husbandry,
well-drillers, cranes and wood-sawing equipment.

(pp) "Factory-built home" includes mobile homes, house
trailers and manufactured homes.

(qq) "Manufactured home" has the same meaning as the
term is defined in section two, article nine, chapter
twenty-one of this code which meets the National Manu-
factured Housing Construction and Safety Standards Act
of 1974 (42 U.S.C. §5401 et seq.), effective on the fifteenth
day of June, one thousand nine hundred seventy-six, and
the federal manufactured home construction and safety
standards and regulations promulgated by the secretary of
the United States department of housing and urban
development.

(rr) "Mobile home" means a transportable structure that
is wholly, or in substantial part, made, fabricated, formed
or assembled in manufacturing facilities for installation or
assembly and installation on a building site and designed
for long-term residential use and built prior to enactment
of the federal Manufactured Housing Construction and
effective on the fifteenth day of June, one thousand nine
hundred seventy-six, and usually built to the voluntary
industry standard of the American national standards
institute (ANSI) — A119.1 standards for mobile homes.

(ss) "House trailers" means all trailers designed and
used for human occupancy on a continual nonrecreational
basis, but may not include fold down camping and travel
trailers, mobile homes or manufactured homes.

(tt) "Parking enforcement vehicle" means a motor
vehicle which does not fit into any other classification of
vehicle in this chapter, has three or four wheels and is
designed for use in an incorporated municipality by a city,
county, state or other governmental entity primarily for
parking enforcement or other governmental purposes with
an operator area with sides permanently enclosed with
rigid construction and a top which may be convertible,
sealed beam headlights, turn signals, brake lights, horn, at
least one rear view mirror on each side and such other
equipment that will enable it to pass a standard motorcy-
cle vehicle inspection.

ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE
OF CERTIFICATES OF TITLE.

§17A-3-2. Every motor vehicle, etc., subject to registration and
certificate of title provisions; exceptions.

(a) Every motor vehicle, trailer, semitrailer, pole trailer and recreational vehicle when driven or moved upon a highway shall be subject to the registration and certificate of title provisions of this chapter except:

(1) Any such vehicle driven or moved upon a highway in conformance with the provisions of this chapter relating to manufacturers, transporters, dealers, lienholders or nonresidents or under a temporary registration permit issued by the department as hereinafter authorized;

(2) Any implement of husbandry upon which is securely attached a machine for spraying fruit trees and plants of the owner or lessee or for any other implement of husbandry which is used exclusively for agricultural or horticultural purposes on lands owned or leased by the owner thereof and which is not operated on or over any public highway of this state for any other purpose other than for the purpose of operating it across a highway or along a highway other than an expressway as designated by the commissioner of the division of highways from one point of the owner's land to another part thereof, irrespective of whether or not the tracts adjoin: Provided, That the distance between the points shall not exceed twenty-five miles, or for the purpose of taking it or other fixtures thereto attached, to and from a repair shop for repairs. The foregoing exemption from registration and license requirements shall also apply to any vehicle hereinbefore described or to any farm trailer owned by the owner or lessee of the farm on which such trailer is used, when such trailer is used by the owner thereof for the purpose of moving farm produce and livestock from such farm along a public highway for a distance not to exceed twenty-five miles to a storage house or packing plant, when such use is a seasonal operation:

(A) The exemptions contained in this section shall also apply to farm machinery and tractors: Provided, That such machinery and tractors may use the highways in going from one tract of land to another tract of land regardless of whether such land be owned by the same or
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39 different persons.

40 (b) Any vehicle exempted hereunder from the requirements of annual registration certificate and license plates and fees therefor shall not be permitted to use the highways between sunset and sunrise.

41 (c) Any vehicle exempted hereunder from the requirements of annual registration certificate and license plates shall be permitted to use the highways as herein provided whether such exempt vehicle is self-propelled, towed by another exempt vehicle or towed by another vehicle for which registration is required.

42 (d) Any vehicle used as an implement of husbandry exempt hereunder must have the words “farm use” affixed to both sides of the implement in ten inch letters. Any vehicle which would be subject to registration as a Class A or B vehicle if not exempted by this section shall display a farm use exemption certificate on the lower driver’s side of the windshield:

43 (i) The farm use exemption certificate shall be provided by the commissioner and shall be issued annually by the assessor of the applicant’s county of residence. The assessor shall issue a farm use exemption certificate upon his or her determination pursuant to an examination of the property books or documentation provided by the applicant that the vehicle has been properly assessed as Class I personal property. The assessor shall charge a fee of two dollars for each certificate, one dollar of the fee shall be retained by the assessor and one dollar shall be remitted by the assessor to the commissioner of the division of motor vehicles to be deposited in a special revolving fund to be used in the administration of this section.

44 (ii) A farm use exemption certificate shall in no way exempt the applicant from maintaining the security as required by chapter seventeen-d of this code on any vehicle being operated on the roads or highways of this state.

45 (iii) No person charged with operating a vehicle without
a farm use exemption certificate, if required under this
section, shall be convicted if he or she produces in court or
in the office of the arresting officer a valid farm use
exemption certificate for the vehicle in question within
five days;

(3) Any vehicle which is propelled exclusively by electric
power obtained from overhead trolley wires though not
operated upon rails;

(4) Any vehicle of a type subject to registration owned
by the government of the United States;

(5) Any wrecked or disabled vehicle which is being
towed by a licensed wrecker or dealer on the public
highways of this state;

(6) The following recreational vehicles shall be exempt
from the requirements of annual registration, license
plates and fees, unless otherwise specified by law, but
shall be subject to the certificate of title provisions of this
chapter regardless of highway use: Motorboats,
all-terrain vehicles and snowmobiles;

(7) Any special mobile equipment as defined in subsec-
tion (r), section one, article one of this chapter.

(b) The provisions of this article relating to recreational
vehicles shall become effective on the first day of July, one
thousand nine hundred eighty-nine.

(c) Notwithstanding the provisions of subsections (a) and
(b) of this section:

(1) Mobile homes or manufactured homes are exempt
from the requirements of annual registration, license
plates and fees;

(2) House trailers may be registered and licensed; and

(3) Factory-built homes are subject to the certificate of
title provisions of this chapter.

§17A-3-4. Application for certificate of title; tax for privilege
of certification of title; exceptions; privilege tax
on payments for leased vehicles; revenue alloca-
tions; transfers; penalty for false swearing.
(a) Certificates of registration of any vehicle or registration plates therefor, whether original issues or duplicates, shall not be issued or furnished by the division 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 division 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 division 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 the motor vehicle at the time of the certification, to be assessed as follows:

(1) 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 imposed by this section 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.

(2) No certificate of title for any vehicle shall be issued to any applicant unless the applicant has paid to the division of motor vehicles the tax imposed by this section which is five percent of the true and actual value of the vehicle.
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*, That the husband or wife, or the
parents or children previously have paid the tax on the
vehicles transferred to the state of West Virginia.

(3) The division of motor vehicles may issue a certificate
of registration and title to an applicant if the applicant
provides sufficient proof to the division of motor vehicles
that the applicant has paid the taxes and fees required by
this section to a motor vehicle dealership that has gone out
of business or has filed bankruptcy proceedings in the
United States bankruptcy court and the taxes and fees so
required to be paid by the applicant have not been sent to
the division by the motor vehicle dealership or have been
impounded due to the bankruptcy proceedings: *Provided,
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 division
of motor vehicles.

(4) The division of motor vehicles shall issue a certificate
of registration and title to an applicant without payment
of the tax imposed by this section if the applicant is a
corporation, partnership or limited liability company
transferring the vehicle to another corporation, partner-
ship or limited liability company when the entities
involved in the transfer are members of the same con-
trolled group and the transferring entity has previously
paid the tax on the vehicle transferred. For the purposes
of this section, control means ownership, directly or
indirectly, of stock or equity interests possessing fifty
percent or more of the total combined voting power of all
classes of the stock of a corporation or equity interests of
a partnership or limited liability company entitled to vote
or ownership, directly or indirectly, of stock or equity
interests possessing fifty percent or more of the value of
the corporation, partnership or limited liability company.

(5) The tax imposed by this section does not apply to
vehicles to be registered as Class H vehicles, or Class M
vehicles, as defined in section one, article ten of this
chapter, which are used or to be used in interstate com-
merce. Nor does the tax imposed by this section apply to
the titling of Class B, Class K or Class E vehicles regis-
tered 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 the title was issued without the
payment of the tax imposed by this section, then before
the owner may obtain registration 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 notwith-
standing 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 semitrailers, full trailers, pole trailers and converter
gear shall not subject the sale or purchase of the vehicles
to the consumers sales tax.

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

(7) 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 subdivi-
sion 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 prop-
121 erty. The total amount of revenue collected by reason of
122 this tax shall be paid into the state road fund and ex-
123 pended by the commissioner of highways for matching
124 federal funds allocated for West Virginia. In addition to
125 the tax, there is a charge of five dollars for each original
126 certificate of title or duplicate certificate of title so issued:
127 Provided, That this state or any political subdivision
128 thereof, or any volunteer fire department, or duly char-
129 tered rescue squad, is exempt from payment of the charge.
129
130 (8) The certificate is good for the life of the vehicle, so
131 long as the same is owned or held by the original holder of
132 the certificate, and need not be renewed annually, or any
133 other time, except as provided in this section.
134
135 (9) If, by will or direct inheritance, a person becomes the
136 owner of a motor vehicle and the tax imposed by this
137 section previously has been paid, to the division of motor
138 vehicles, on that vehicle, he or she is not required to pay
139 the tax.
140
141 (10) A person who has paid the tax imposed by this
142 section is not required to pay the tax a second time for the
143 same motor vehicle, but is required to pay a charge of five
144 dollars for the certificate of retitle of that motor vehicle,
145 except that the tax shall be paid by the person when the
146 title to the vehicle has been transferred either in this or
147 another state from such person to another person and
148 transferred back to such person.
149
150 (c) Notwithstanding any provisions of this code to the
151 contrary, the owners of trailers, semitrailers, recreational
152 vehicles and other vehicles not subject to the certificate of
153 title tax prior to the enactment of this chapter are subject
154 to the privilege tax imposed by this section: Provided,
155 That the certification of title of any recreational vehicle
156 owned by the applicant on the thirtieth day of June, one
157 thousand nine hundred eighty-nine, is not subject to the
158 tax imposed by this section: Provided, however, That
159 mobile homes, manufactured homes, modular homes,
160 house trailers and similar nonmotive propelled vehicles,
161 except recreational vehicles, susceptible of being moved
162 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 the vehicle is accompanied by an affidavit stating that the 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, that 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.

(e) Notwithstanding any other provisions of this section, any person in the military stationed outside West Virginia, or his or her dependents who possess a motor vehicle with valid registration, are exempt from the provisions of this article for a period of nine months from the date that that person returns to this state or the date his or her dependent returns to this state, whichever is later.

(f) After the first day of July, one thousand nine hundred ninety-seven, no person may transfer, purchase or sell a factory-built home without a certificate of title issued by the commissioner in accordance with the provisions of this article:

(1) Any person who fails to provide a certificate of title upon the transfer, purchase or sale of a factory-built home
is guilty of a misdemeanor, and upon conviction thereof, shall for the first offense be fined not less than one hundred dollars nor more than one thousand dollars, or be imprisoned in the county or regional jail for not more than one year or, both fined and imprisoned. For each subsequent offense, the fine may be increased to not more than two thousand dollars, with imprisonment in the county or regional jail not more than one year or, both fined and imprisoned.

(2) Failure of the seller to transfer a certificate of title upon sale or transfer of the factory-built home gives rise to a cause of action, upon prosecution thereof, and allows for the recovery of damages, costs and reasonable attorney fees.

ARTICLE 5. PERMITS TO NONRESIDENT OWNERS.

§17A-5-1. Exemptions from registration of nonresident owners; special permit and certificate in lieu of registration for nonresidents maintaining temporary and recurrent or seasonal residence in state.

(a) A nonresident owner, except as otherwise provided in this section, owning any vehicle registered in a foreign state or country of a Class A type otherwise subject to registration hereunder may operate or permit the operation of such vehicle within this state for a period of thirty days without registering such vehicle in, or paying any fees to, this state subject to the condition that such vehicle at all times when operated in this state is duly registered in and displays upon it a valid registration card and registration plate or plates issued for such vehicle in the place of residence of such owner and that such vehicle is not operated for commercial purposes.

(b) Every nonresident, including any foreign corporation, carrying on business within this state and owning and regularly operating in such business any motor vehicle, trailer or semitrailer or mobile equipment as defined in section one, article one, chapter seventeen-a of this code, within this state, shall be required to register each such vehicle and pay the same fee therefor as is
required with reference to like vehicles owned by residents of this state, except as otherwise provided by reciprocal agreements with other states accomplished pursuant to sections ten and ten-a, article two of this chapter.

(c) Any nonresident who accepts or engages in temporary and recurrent or seasonal employment, business, profession or occupation in this state and maintains temporary and recurrent or seasonal residence in this state in connection with such employment, business, profession or occupation, and any nonresident, including any corporation carrying on business of a temporary and recurrent or seasonal nature in this state and owning and temporarily and recurrently or seasonally operating in such business any motor vehicle, trailer or semitrailer or mobile equipment as defined in section one, article one, chapter seventeen-a of this code, within this state, may operate or permit the operation of such vehicle within this state without causing said vehicle to be registered as otherwise required by article three of this chapter: Provided, That such nonresident, in lieu of registration of such vehicle, shall make application to the division and receive a special permit for such vehicle which shall be evidenced by a metal identification plate and certificate in writing, which special permit plate and certificate shall together identify the vehicle for which such special permit and plate shall issue and such certificate shall bear the name and address of the owner of such vehicle. Such special permit shall be issued without previous certification of title to such vehicle as otherwise required by article three of this chapter or the provisions of subsection (b) of this section:

(1) Every owner of a vehicle for which such special permit is desired shall make a verified application to the division for such special permit upon the appropriate form or forms furnished by the division and shall bear the signature of the owner written with pen and ink and shall contain the character of information called for by section three, article three of this chapter, a description of the employment, residence, business and location of such business set forth in such manner as to show the tempo-
rare and recurrent or seasonal nature of such residence, employment, business, profession or occupation, and that such vehicle is duly registered in the state of residence of such owner. There shall be an application for each vehicle for which a special permit is desired.

(2) Any special permit or plate issued by the division under this section shall be effective and valid for a period of sixty consecutive days from and including the date of issuance and, upon similar application by the owner, the commissioner may renew any such special permit for immediately ensuing similar period or periods of sixty days in any fiscal year. The division shall charge a fee of fifty dollars for each special permit issued under this section:

(A) A special permit shall be issued for one vehicle only and no combination of two or more vehicles shall be operated under fewer special permits than the number of vehicles in such combination. A special permit shall not be issued for any vehicle which is not duly registered in the state of residence of the owner thereof.

(B) The registration plate issued for such vehicle by the state of residence of the owner shall not be displayed on such vehicle while being operated over any highway during any period for which a special permit shall have been issued for such vehicle under this section, but there shall be carried in such vehicle the certificate of registration issued for such vehicle by the state of residence of such owner.

(C) Any owner of any vehicle making application to operate such vehicle upon the highways of this state pursuant to the provisions of this article shall also be required to comply with the provisions of chapter seventeen-d of this code prior to commencing such operation.

(3) The commissioner shall prescribe the substance, form, color and context of the certificate or special permit and the special permit plate, each of which shall be visually distinguishable from the certificates of registration and registration plates issued under article three of
(4) It is a misdemeanor for any person to drive or move or knowingly to permit to be moved or driven upon any highway any vehicle for which a special permit shall have been issued under this section unless such vehicle shall bear the special plate called for by the certificate evidencing such special permit.

(5) When the employment, business, profession, occupation or residence of the owner of a vehicle for which such special permit shall have been issued shall cease to be temporary and recurrent or seasonal, any special permit issued for such vehicle pursuant to this section shall immediately terminate and become void and such vehicle shall thereupon become subject to registration under article three of this chapter or the provisions of subsection (b) of this section.

(6) Any special permit issued pursuant to this section shall be valid and effective on and after the first day of a month, that is, such special permit issued between the first and fifteenth days of a month shall be effective during sixty consecutive days from and including the first day of the month in which the permit shall issue; and a special permit issued after the fifteenth day of any month shall be effective during sixty consecutive days commencing with and including the first day of the month next following the month in which such special permit shall be issued.

(d) Any other provision of this section notwithstanding any nonresident referred to in subsection (c) of this section who is engaged by a public utility, as the later is defined in chapter twenty-four of this code, for the exclusive purpose of restoring the service of said utility as a result of an emergency in which such service is affected shall be permitted to operate such motor vehicle, trailer or semitrailer or mobile equipment as defined in section one, article one, chapter seventeen-a of this code, within this state, without causing said motor vehicle, trailer or semitrailer or mobile equipment as defined in section one, article one, chapter seventeen-a of this code to be registered as otherwise provided by this section and article
three of this chapter for the period actually necessary for such restoration but not to exceed a period of ten consecutive days: Provided, That said motor vehicle, trailer or semitrailer or mobile equipment shall be registered in another state upon entry into this state. The provisions of this subsection shall not affect the requirements of reciprocal agreements with other states accomplished pursuant to sections ten and ten-a, article two of this chapter.

ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.

§17A-10-1. Classification of vehicles for purpose of registration.

Vehicles subject to registration under the provisions of this chapter shall be placed in the following classes for the purpose of registration:

Class A. Motor vehicles of passenger type and trucks with a gross weight of not more than eight thousand pounds, other than those operated for compensation;

Class B. Motor vehicles designated as trucks with a gross weight of more than eight thousand pounds, truck tractors, or road tractors other than those operated for compensation;

Class C. All trailers and semitrailers, except those operated for compensation, and except house trailers and trailers or semitrailers designed to be drawn by Class A motor vehicles and having a gross weight of less than two thousand pounds;

Class E. Motor vehicles designated as trucks, truck tractors or road tractors operated for transportation of property for compensation, but being exempt from the operating jurisdiction of the public service commission, and for which a statement of exemption has been received from the public service commission;

Class G. Motorcycles and parking enforcement vehicles;

Class H. Motor vehicles operated regularly for the transportation of persons for compensation under a certificate of convenience and necessity or contract carrier
permit issued by the public service commission;

Class J. Motor vehicles operated for transportation of persons for compensation by common carriers, not running over a regular route or between fixed termini;

Class K. Motor vehicles designated as trucks, truck tractors or road tractors operated for transportation of property for compensation under a certificate of convenience and necessity or a contract carrier permit issued by the public service commission;

Class L. All trailers and semitrailers used for transportation of property for compensation;

Class M. Mobile equipment as defined in subdivision (oo), section one, article one of this chapter;

Class R. House trailers;

Class T. Trailers or semitrailers of a type designed to be drawn by Class A vehicles and having a gross weight of less than two thousand pounds; and

Class Farm Truck. Motor vehicles designated as trucks having a minimum gross weight of more than eight thousand pounds and a maximum gross weight of sixty-four thousand pounds, used exclusively in the conduct of a farming business, engaged in the production of agricultural products by means of: (a) The planting, cultivation and harvesting of agricultural, horticultural, vegetable or other products of the soil; or (b) the raising, feeding and care of livestock, poultry, bees and dairy cattle. Such farm truck shall be used only for the transportation of agricultural products so produced by the owner thereof, or for the transportation of agricultural supplies used in such production, or for private passenger use.

§17A-10-3. Registration fees for vehicles equipped with pneumatic tires.

The following registration fees for the classes indicated shall be paid to the division for the registration of vehicles subject to registration hereunder when equipped with pneumatic tires:
(a) Registration fees for the following classes shall be paid to the division annually:

(1) **Class A.** — The registration fee for all motor vehicles of this class is as follows:

(A) For motor vehicles of a weight of three thousand pounds or less — twenty-five dollars.

(B) For motor vehicles of a weight of three thousand one pounds to four thousand pounds — thirty dollars.

(C) For motor vehicles of a weight in excess of four thousand pounds — thirty-six dollars.

(D) For motor vehicles designed as trucks with declared gross weights of four thousand pounds or less — twenty-five dollars.

(E) For motor vehicles designed as trucks with declared gross weights of four thousand 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.

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

(A) For declared gross weights of eight thousand 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.

(B) 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
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... exceeds sixteen thousand pounds.

(C) 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.

(3) 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 converter gear registered as Class C and Class L may be registered for a period of ten years at a fee of one hundred dollars.

(4) Class G. — The registration fee for each motorcycle or parking enforcement vehicle is eight dollars.

(5) 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 division of motor vehicles.

(6) 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.

(7) Class M. — The registration fee for all vehicles of this class is seventeen dollars and fifty cents.

(8) Class U. — The registration fee for all vehicles of this class is fifty-seven dollars and fifty cents.

(9) Class Farm Truck. — The registration fee for all motor vehicles of this class is as follows:

(A) For farm trucks of declared gross weights of eight
thousand one pounds to sixteen thousand pounds — thirty dollars.

(B) For farm trucks of declared gross weights of sixteen thousand one pounds to twenty-two thousand pounds — sixty dollars.

(C) For farm trucks of declared gross weights of twenty-two thousand one pounds to twenty-eight thousand pounds — ninety dollars.

(D) For farm trucks of declared gross weights of twenty-eight thousand one pounds to thirty-four thousand pounds — one hundred fifteen dollars.

(E) For farm trucks of declared gross weights of thirty-four thousand one pounds to forty-four thousand pounds — one hundred sixty dollars.

(F) For farm trucks of declared gross weights of forty-four thousand one pounds to fifty-four thousand pounds — two hundred five dollars.

(G) For farm trucks of declared gross weights of fifty-four thousand one pounds to sixty-four thousand pounds — two hundred fifty dollars.

(b) Registration fees for the following classes shall be paid to the division for a maximum period of three years, or portion thereof based on the number of years remaining in the three-year period designated by the commissioner:

(1) Class R. — The annual registration fee for all vehicles of this class is twelve dollars.

(2) Class T. — The annual registration fee for all vehicles of this class is eight dollars.

(c) The fees paid to the division for a multiyear registration provided for by this chapter shall be the same as the annual registration fee established by this section and any other fee required by this chapter multiplied by the number of years for which the registration is issued.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In 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 10th day of April, 1997.

Governor