WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1998

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ENROLLED

Com. Sub. for House Bill No. 4451

(By Delegate Warner)

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Passed March 12, 1998

In Effect Ninety Days from Passage
AN ACT to amend and reenact sections four and sixteen, article three; section three, article seven; and sections one, three and five, article ten, all of chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to motor vehicle registration; providing for a permanent, nontransferable license plate for commercial type trailers at a one time fee; eliminating certain classes of registration; circumstances under which vehicles are not to be registered; and suspension of registration.

Be it enacted by the Legislature of West Virginia:

That sections four and sixteen, article three; section three, article seven; and sections one, three and five, article ten, all of chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, 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.
(a) Certificates of registration of any vehicle or registration plates therefor, whether original issues or duplicates, may 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 vehicle 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 may 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 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, partnership
or limited liability company when the entities involved in
the transfer are members of the same controlled 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 commerce. Nor does the tax imposed by this section apply to the titling of Class B vehicles registered at a gross weight of fifty-five thousand pounds or more, or to the titling of Class C 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 shall 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 vehicles in excess of fifty-five thousand pounds and Class C semitrailers, full trailers, pole trailers and converter gear may 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 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 is a charge of five dollars for each original certificate of title or duplicate certificate of title so issued: Provided, That this state or any political subdivision thereof, or any volunteer fire department, or duly chartered rescue squad is exempt from payment of the charge.

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

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

(10) A person who has paid the tax imposed by this section may not be 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 the person to another person and transferred back to the person.

(c) Notwithstanding any provisions of this code to the contrary, the owners of trailers, semitrailers, recreational vehicles and other vehicles not subject to the certificate of title tax prior to the enactment of this chapter are subject to the privilege tax imposed by this 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, manufactured homes, modular homes and similar nonmotive propelled vehicles, except recreational vehicles and house trailers, 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 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 or regional 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.

§17A-3-16. Expiration of registration and certificates of title.

(a) Every vehicle registration under this chapter and every registration card and registration plate issued under this chapter expires at midnight on the last day of the month designated by the commissioner: Provided, That the commissioner may extend the period during which the registration plates may be used.

Certificates of title need not be renewed annually but remain valid until canceled by the division for cause or upon a transfer of any interest shown in the vehicle.

(b) Notwithstanding the provisions of this section or of any provision of this chapter, the commissioner shall adopt a staggered registration system whereby the registration of Class A motor vehicles is for a period of twelve consecutive calendar months, the expiration dates of the registrations to be staggered throughout the year: Provided, That on or after the first day of July, one thousand nine hundred ninety-seven, the commissioner shall also offer an optional two-year registration system, whereby the registration of all vehicles shall be for a period of twenty-four consecutive calendar months, the expiration dates of the registrations to be staggered throughout the year. Under this option, all annual fees due at the time of registration shall be multiplied by two.
(1) On or after the first day of July, one thousand nine
hundred ninety-seven, all Class A motor vehicles as
defined in section one, article ten of this chapter, shall be
registered for a period of twelve or twenty-four
consecutive calendar months. There hereby are
established twelve registration periods, each of which shall
start on the first day of each calendar month of the year
and shall end on the last day of the twelfth month from
date of beginning. The period ending on the thirty-first
day of January is designated the first period; that ending
on the twenty-eighth (twenty-ninth) day of February is
designated the second; that ending on the thirty-first day
of March is designated the third; that ending on the
thirtieth day of April is designated the fourth; that ending
on the thirty-first day of May is designated the fifth; that
ending on the thirtieth day of June is designated the sixth;
that ending on the thirty-first day of July is designated the
seventh; that ending on the thirty-first day of August is
designated the eighth; that ending on the thirtieth day of
September is designated the ninth; that ending on the
thirty-first day of October is designated the tenth; that
ending on the thirtieth day of November is designated the
eleventh; and that ending on the thirty-first day of
December is designated the twelfth.

(2) All Class A motor vehicles, which are operated for
the first time upon the public highways of this state to and
including the fifteenth day of any given month are subject
to registration and payment of the fee for the twelve or
twenty-four-month period commencing the first day of
the month of operation. All Class A motor vehicles
operated for the first time upon the public highways of
this state on and after the sixteenth day of any given
month are subject to registration and payment of fee for
the twelve or twenty-four-month period commencing the
first day of the month of the next following calendar
month.

(c) On or before the first day of July, one thousand
nine hundred ninety-six, all Class T and Class R vehicles
shall be registered 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.
(d) On or before the first day of July, two thousand, all Class C trailers shall be registered for the duration of the owner’s interest in the trailer and shall not expire until either sold or otherwise permanently removed from the service of the owner.

ARTICLE 7. SPECIAL STICKERS.

§17A-7-3. Operation of house trailer under special stickers; application and fees; expiration; issuance of special stickers to holders of Class B registration plates.

Upon application therefor on a form prescribed by him or her the commissioner may issue to the owner of a house trailer a special one-movement sticker of such design and content, as may be prescribed by him or her: Provided, That such special sticker shall not be issued to any house trailer or trailer dealer. Such sticker shall be valid for the movement of a house trailer one time only over the streets and highways of this state, and no more than one such sticker may be issued for the same house trailer while owned by the same person. A fee of two dollars shall be received by the department for each special sticker. In order that any holder of a Class B registration plate who is engaged in the business of moving house trailers for hire may move a house trailer at the request of the owner thereof without the delay which would be incident to such owner obtaining a special one-movement sticker, any such holder may from time to time apply to the commissioner for a supply of said special one-movement stickers, and upon proper application therefor on a form prescribed by the commissioner and payment of the fee for each such sticker hereinbefore in this section prescribed, the commissioner shall issue to such holder a supply of serially numbered stickers, not in excess of twenty-five upon any one application. Before moving any such house trailer, the holder of the Class B registration plate who has obtained a supply of such special one-movement stickers shall issue such a sticker to the owner thereof and shall make certain that such sticker is affixed to the house trailer prior to the movement thereof. No refund or credit of fees paid by the holder of
any such Class B registration plate for any such special one-movement sticker shall be made or allowed.

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;

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

Class C. All trailers and semitrailers, 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 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 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 under this chapter 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 twenty-eight dollars and fifty cents: Provided, That the registration fees and any other fees required by this chapter for Class A vehicles under the optional biennial staggered registration system shall be multiplied by two and paid biennially to the division.

No license fee shall be charged for vehicles owned by churches, or by trustees for churches, which are regularly used for transporting parishioners to and from church services. Notwithstanding the exemption, the certificate of registration and license plates shall be obtained the same as other cards and plates under this article.

(2) Class B. — The registration fee for all motor vehicles of this class 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 the 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 the vehicle or combination of vehicles 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 the vehicle or combination of vehicles exceeds fifty-five thousand pounds.

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

(4) 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, reduced by the amount that the mileage of the vehicles operated in states other than West Virginia bears to the total mileage operated by the vehicles in all states under a formula to be established by the division of motor vehicles.

(5) 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 special fees set forth in this section.

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

(7) 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 multi-year 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.

(d) The registration fee for all Class C vehicles shall be fifty dollars. On or before the first day of July, two-thousand, all Class C trailers shall be registered for the duration of the owner’s interest in the trailer and shall not
§17A-10-5. Public service commission assessment must be paid before vehicle registered; suspension of registration cards and plates issued to motor carriers; privilege to exchange suspended registration cards and plates.

The commissioner shall not register any vehicle subject to economic regulation by the public service commission unless the assessment for such vehicle provided for in section six, article six, chapter twenty-four-a of this code shall have been paid and notice of such payment shall have been received by the commissioner in the manner provided by said section.

The commissioner shall suspend any registration card and registration plate issued by the department under authority of this section for any vehicle subject to economic regulation by the public service commission, pursuant to chapter twenty-four-a of this code, upon receiving certification in writing from the public service commission that said commission has canceled, suspended or revoked the certificate of convenience and necessity, permit or other operating authority of the motor carrier to whom or to which such registration card and registration plate were issued under the authority provided by the first paragraph of this section: Provided, That the motor carrier to whom or to which said registration card and registration plate were issued shall have the privilege of receiving in exchange for any such suspended registration card and registration plate a registration card and registration plate for a vehicle of a different class as provided by section one of article four of this chapter.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

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 approved this the 29th,

day of March, 1998

Governor
PRESENTED TO THE

GOVERNOR

Date 3/20/98

Time 4:16 pm