ENROLLED

House Bill No. 4713

(By Delegates Warner, Michael, Beane, Kelley, Laird, Pritt and Miller)

Passed March 12, 1998

In Effect from Passage
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H. B. 4713

(BY DELEGATES WARNER, MICHAEL, BEANE, KELLEY, LAIRD, PROUDFOOT AND MILLER)

[Passed March 12, 1998; 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; to further amend said article by adding thereto a new section, designated section seven-b; to further amend said chapter by adding thereto a new article, designated article six-1; and to amend and reenact sections ten and ten-a, article two, chapter seventeen-a of said code, all relating generally to assessment of public service businesses; returns of property to board of public works; valuation of certain classes intrastate public service corporation motor vehicle businesses either registered or not registered under a proportional registration agreement; assessment of interstate public service corporation motor vehicle businesses registered under a proportional registration agreement; valuation of certain classes intrastate public service corporation motor vehicle businesses either registered or not registered under a proportional registration agreement; interstate public service motor vehicle business; calculation of tax; form and manner of making disclosure; failure to make disclosure; criminal penalty; compelling disclosure; procuring information and tentative disclosure; failure to give information required by motor vehicles commissioner; criminal penalty; adjustment of valuation by interstate commerce appeals board; appeal from valuation by board; certification of levies to auditor; failure of officers to
perform duties as to property of interstate motor vehicle corporations; injunction to restrain collection of tax; payment of assessment by owner or operator; no release of taxes assessed against such corporations; accounting for levies against interstate commercial motor vehicle corporations; certification by auditor of amount chargeable to sheriff from levies against interstate motor vehicles; payment of amount due municipality; lien of taxes; notice; collection by suit; operating fund for interstate commerce assessment division in auditor's office; motor vehicles commissioner — reciprocal agreements with other states; severability; authorizing the entry of this state into reciprocal proportional registration agreements; payment of taxes; issuance of registration plates or markers; promulgation of rules; interagency cooperation; requirement that all registrants pay tax; intermittent interstate commerce and promulgation of rules; proportional registration agreement prevails.

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; that said article be further amended by adding thereto a new section, designated section seven-b; that said chapter be further amended by adding thereto a new article, designated article six-d'; and that sections ten and ten-a, article two, chapter seventeen-a of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 6. ASSESSMENT OF PUBLIC SERVICE BUSINESSES.

§11-6-1. Returns of property to board of public works.

1 (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 exclusively within this state by commercial motor vehicles. For the purposes of this article, commercial motor vehicle is defined as those 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.

(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 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
to by its president, vice president, secretary or principal
accounting officer.

(f) The return required by this section of every owner
or operator shall cover the year ending on the thirty-first
day of December, next preceding, and shall be made on
forms prescribed by the board of public works, which
board is hereby invested with full power and authority and
it is hereby made its duty to prescribe the forms as will
require from any owner or operator herein mentioned
information as in the judgment of the board may be of
use to it in determining the true and actual value of the
properties of the owners or operators.
§11-6-7b. Valuation of certain classes intrastate public service corporation motor vehicle businesses either registered or not registered under a proportional registration agreement.

On or before the first day of September, one thousand nine hundred ninety-eight, the tax commissioner shall propose a legislative rule for submission to the Legislature pursuant to the provisions of article three, chapter twenty-nine-a of this code, which rule shall describe in detail the methods whereby the tax commissioner will determine the market value of the following property:

(a) Intrastate public service corporation motor vehicle businesses which may or may not be registered under a proportional registration agreement but which nonetheless is operated exclusively within the state of West Virginia.

(b) A trailer, semitrailer or road tractor operated exclusively in this state or a trailer or trailer of a West Virginia based interstate commerce motor vehicle business registered under the provisions 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.

(c) For purposes of equitably assessing the valuations between and among interstate commercial motor vehicles and intrastate commercial motor vehicles as defined in section ten-a, article two, chapter seventeen-a, of this code, the levy rate applied to both intrastate commercial motor vehicles and interstate motor vehicles shall run one year in arrears in order for the commissioner of motor vehicles to provide adequate notice to the facilitator of the proportional registration agreement and other jurisdictions of the assessments due and for counties to supply their levy rates to the state auditor.

As soon as such assessment is made, the secretary of the board shall notify the owner or operator affected thereby of the amount thereof by written notice deposited in the United States post office, addressed to such owner or operator at the principal office or place of business of
such owner or operator. Such assessment and valuation shall be final and conclusive, unless the same be appealed from in the manner following, within fifteen days after such notice is so deposited.

(d) Notwithstanding any other provision of the code to the contrary, the department of tax and revenue is hereby authorized to promulgate an emergency rule for the implementation of this section.

ARTICLE 6D. ASSESSMENT OF INTERSTATE PUBLIC SERVICE CORPORATION MOTOR VEHICLE BUSINESSES REGISTERED UNDER A PROPORTIONAL REGISTRATION AGREEMENT.

§11-6D-1. Valuation of certain classes intrastate public service corporation motor vehicle businesses either registered or not registered under a proportional registration agreement.

On or before the first day of September, one thousand nine hundred ninety-eight, the tax commissioner shall propose a legislative rule for submission to the Legislature pursuant to the provisions of article three, chapter twenty-nine-a of this code, which rule shall describe in detail the methods whereby the tax commissioner will determine the market value of the following property:

(a) Intrastate public service corporation motor vehicle businesses which may or may not be registered under a proportional registration agreement but which nonetheless is operated exclusively within the state of West Virginia.

(b) A trailer, semitrailer or road tractor operated exclusively in this state or a trailer or trailer of a West Virginia based interstate motor vehicle business registered under the provisions 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.

(c) For purposes of equitably assessing the valuations between and among interstate commercial motor vehicles and intrastate commercial motor vehicles as defined in
section ten-a, article two, chapter seventeen-a, of this code, the levy rate applied to both intrastate commercial motor vehicles and interstate motor vehicles shall run one year in arrears in order for the commissioner of motor vehicles to provide adequate notice to the facilitator of the proportional registration agreement and other jurisdictions of the assessments due and for counties to supply their levy rates to the state auditor.

As soon as such assessment is made, the secretary of the board shall notify the owner or operator affected thereby of the amount thereof by written notice deposited in the United States post office, addressed to such owner or operator at the principal office or place of business of such owner or operator. Such assessment and valuation shall be final and conclusive, unless the same be appealed from in the manner following, within fifteen days after such notice is so deposited.

(d) Notwithstanding any other provision of the code to the contrary, the department of tax and revenue is hereby authorized to promulgate an emergency rule for the implementation of this section.

§11-60-2. Disclosure of required information to the tax commissioner.

(a) "Interstate motor vehicle", for purposes of this article, is defined as every truck, road tractor or semitrailer used as an interstate public service corporation motor vehicle registered under a proportional registration agreement.

(b) The procedure for determining the value thereof is exclusively provided for under section two of this article.

(c) The words "owner or operator," as applied herein to trucks or semitrailers used as an interstate 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 interstate
motor vehicle in the transportation of property doing
business partly or wholly within this state.

(d) Every interstate commercial motor vehicle covered
by this article shall pay such taxes based upon the
assessments as are required by law pursuant to rules and
regulations promulgated by the tax commissioner.

§11-6-3. Interstate public service motor vehicle business;
calculation of tax.

(a) In the case of interstate public service motor
vehicles used for the transportation of property and which
are registered under a proportional registration agreement,
pursuant to the provisions of section ten-a, article two,
chapter seventeen-a of this code, the owners, operator or
operators, for each interstate motor vehicle, on forms
prescribed by the commissioner of motor vehicles, shall
disclose 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 interstate motor vehicle to the
purchaser thereof and the year the purchaser acquired the
interstate motor vehicle.

(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 for: (1) The
gross capital cost of an interstate motor vehicle shall be
multiplied by a percentage factor representing the
remnant of the vehicle's value after depreciation
according to a depreciation schedule established by the
tax commissioner, which calculation shall yield the
appraised value of the vehicle; (2) for the interstate truck,
road tractor, or power unit, registered 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 fraction 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 interstate motor vehicle operator
during times property was being transported for
commercial purposes, as reported to the division of motor
vehicles pursuant to any proportional registration
agreement on file therewith to obtain the apportioned
value, which apportioned value shall be multiplied by sixty
percent to yield the assessed value which shall be
multiplied by the applicable rate of tax.

§11-6D-4. Form and manner of making disclosure; failure to
make disclosure; criminal penalty.

All disclosures to be made to the motor vehicles
commissioner, under this chapter, shall be made in
conformity with any reasonable requirement of the motor
vehicles commissioner of which the person making the
disclosure shall have had notice, and shall be made upon
forms which may be furnished by the motor vehicles
commissioner, and according to instructions which the
motor vehicles commissioner may give relating thereto,
and to the description and itemizing of the property.

Such owner or operator, whether a natural person, or a
corporation or company, failing to make such disclosure
as herein required shall be guilty of a misdemeanor and,
fined one thousand dollars for each month such failure
continues.

§11-6D-5. Compelling such disclosure; procuring information
and tentative assessments by motor vehicles
commisssioner.

(a) If any owner or operator fails to make such
disclosure within the time required by section one of this
article, it shall be the duty of the commissioner of motor
vehicles to take such steps as may be necessary to compel
such compliance, and to enforce any and all penalties
imposed by law for such failure, pursuant to his or her
authority under this article as well as section ten, article
two, chapter seventeen-a, and section ten-a, article two,
chapter seventeen-a of this code.

(b) The disclosure delivered to the motor vehicles
commissioner shall be examined by him, and if it be
found insufficient in form or in any respect defective, imperfect or not in compliance with law, he shall compel the person required to make it to do so in proper and sufficient form, and in all respects as required by law.

(c) If any such owner or operator fails to make such disclosure, the motor vehicles commissioner shall proceed, in such manner as to him may seem best, to obtain the facts and information required to be furnished by such disclosures.

(d) The motor vehicles commissioner may send for persons and papers, and may compel the attendance of any person and the production of any paper necessary, in the opinion of said motor vehicles commissioner, to enable him to obtain the information required for the proper discharge of his duties under this section.

(e) The motor vehicles commissioner shall arrange, collate and tabulate such disclosures and all pertinent information and data contained therein, such further evidence or information as may be required by the motor vehicles commissioner of such owner or operator, and all other pertinent evidence, information and data he has been able to procure, upon suitable work sheets, so that they may be conveniently considered, and shall on or before the fifteenth day of September, lay such disclosures and work sheets, together with his recommendations in the form of a tentative assessment of the property of each such owner or operator, before the motor vehicles commissioner. And as soon as the motor vehicles commissioner has completed the preparation of such work sheets and tentative assessments, he shall notify the owner or operator affected thereby of the amount of such tentative assessment by written notice deposited in the United States post office, addressed to such owner or operator at the principal office or place of business of such owner or operator, and the motor vehicles commissioner shall retain in his office true copies of such work sheets which shall be available for inspection by any such owner or operator or his duly authorized representative.
§11-60-6. Failure to give information required by motor vehicles commissioner; criminal penalty.

1 If any person shall refuse to appear before the motor vehicles commissioner when required to do so, as aforesaid, or shall refuse to testify before the motor vehicles commissioner in regard to any matter as to which the motor vehicles commissioner may require him to testify, or if any person shall refuse to produce any paper in his possession or under his control, which the motor vehicles commissioner may require him to produce, every such person shall be guilty of a misdemeanor and fined five hundred dollars, and may be imprisoned not less than one nor more than six months, at the discretion of the court.

§11-60-7. Adjustment of valuation by interstate commerce appeals board.

1 There is hereby created the interstate commerce appeals board the membership of which shall be comprised of the tax commissioner or his or her designee, the motor vehicles commissioner or his or her designee, and the state auditor or his or her designee. The interstate commerce appeals board shall meet the first Monday in July, unless the first Monday is a holiday at which time the interstate commerce appeals board shall meet upon the first business day thereafter. In the event of an emergency, the interstate commerce appeals board may be convened upon the agreement of two of the three members of the board. Any time before an owner or operator appeals a valuation to circuit court, as provided for in section eight of this article, the interstate commerce appeals board may, after consideration of all relevant facts and evidence, adjust the valuation made by the interstate commerce appeals board pursuant to section eleven of this article.

§11-60-8. Appeal from valuation by board.

1 Any owner or operator claiming to be aggrieved by any such decision may, within the time aforesaid, apply by petition in writing, duly verified, to the circuit court of Kanawha County, and jurisdiction is hereby conferred
upon and declared to exist in such court, in which such
application is filed, to grant, docket and hear such appeal;
and such appeal, as to all of the property so charged,
forthwith be allowed by such court so applied to, and be
heard by such court as to all of such property as soon as
possible after the appeal is docketed, but notice in writing
of such petition shall be given to the motor vehicles
commissioner, by mailing a copy of the petition for an
appeal filed as aforesaid, which said petition shall recite
the fact that copies of such petition have been sent by
registered mail. Notice in writing of the hearing shall be
given by the motor vehicles commissioner to the state tax
commissioner and the state auditor at least fifteen days
beforehand. Upon such hearing the court shall hear all
such legal evidence as shall be offered on behalf of the
state or any other county, district or municipal corporation
interested, or on behalf of the appealing owner or
operator. If the court be satisfied that the value so
charged by the motor vehicles commissioner and affirmed
or determined by the interstate commerce appeals board,
is correct, it shall confirm the same, but if it be satisfied
that the value so fixed by the board or the motor vehicles
commissioner is either too high or too low, subject to the
assessment valuations provided for in subsection (b),
section eleven of this article, the court shall correct the
valuation so made and shall ascertain and fix the true and
actual value of such property according to the facts
proved, and shall certify such value to the auditor, motor
vehicles commissioner and to the tax commissioner. The
state or the owner or operator may appeal to the supreme
court of appeals if the proportional assessed value of the
property be fifty thousand dollars or more.

If the court to which an application for appeal would
properly be made as aforesaid shall not be in session, the
judge thereof in vacation shall forthwith allow the appeal,
and if the judge thereof be disqualified or for any reason
not be available, the filing of the aforesaid petition in the
office of the clerk of the circuit court of Kanawha County,
within the time of aforesaid, shall constitute sufficient
compliance with this section, and the appeal shall
thereafter be proceeded with as otherwise provided in this section.


(a) The clerk of the county commission of every county in which any property lies which was so assessed shall, within thirty days after the county and district levies are laid by such commission, certify to the auditor the amount levied upon each one hundred dollars' value of the property of each class in the county for county purposes, and on each one hundred dollars of the value of the property of each class in each magisterial district for the district purposes. It shall be the duty of the secretary of the board of education of every school district and independent district in which any part of the property lies, within thirty days after the levies are laid therein for free school and building purposes, or either, to certify to the auditor the amount so levied on each one hundred dollars' value of the property of each class therein for each of such purposes; and it shall be the duty of the recorder, clerk or other recording officer of every municipal corporation in which any part of the property lies, within the same time, after levies are laid therein for any of the purposes authorized by law, to certify to the auditor the amount levied upon each one hundred dollars' value of the property of each class therein for each and every purpose.

(b) Such county levy rates shall be reported to the auditor for use in the following taxable year's assessment pursuant to the provisions of section eleven, article six-d of this chapter.

(c) For purposes of establishing the valuation rate to be supplied to the motor vehicles commissioner by the auditor and the tax commissioner, the auditor shall use such figures and amounts as are certified to him or her under section nine, article six-d, chapter eleven of this code one year in arrears.

§11-6.1-10. Failure of officers to perform duties as to property of interstate motor vehicle corporations.
Any clerk of a county commission, secretary of the board of education, or recorder, clerk or other recording officer of a municipal corporation, who shall fail to perform any of the duties herein required of him shall be guilty of a misdemeanor, and, upon conviction thereof, fined not less than one hundred nor more than five hundred dollars. In case of the failure of any such officers to furnish to the auditor the certificate herein required, the auditor may obtain the rate of taxation for any of said purposes from the copies of the land books on file in his office, if the same be found in such books, if not, in such other way or manner as he may deem necessary or proper for the purpose.

§11-60-11. Injunction to restrain collection of tax.

No injunction shall be awarded by any court or judge to restrain the collection of the taxes, or any part of them, so assessed upon the property of such owner or operator, except upon the ground that the assessment thereof was in violation of the constitution of the United States, or of this state; or that the same were fraudulently assessed, or that there was a mistake made in the amount of taxes properly chargeable on the property of such owner or operator; and in the latter case no such injunction shall be awarded unless application be first made to the interstate commerce appeals board to correct the mistake claimed, and such board shall refuse to do so, which fact shall be stated in the bill, nor unless the complainant pay into the treasury of the state all taxes appearing by the bill of complaint to be owing.

§11-60-12. Payment of assessment by owner or operator.

Beginning on the first day of July, one thousand nine hundred ninety-nine, it shall be the duty of such owner or operator, so assessed and charged, to pay annually the amount of such taxes, and such registration fees as are set by the motor vehicles commissioner as are required into the treasury of the state by delivering payment of the same to the commissioner of motor vehicles in the form and manner prescribed by him or her. If such owner or operator fail to pay such taxes, and registration fees when due, as prescribed, then interest thereon at the rate of nine
per centum per annum until paid shall be added to any and all other penalties imposed by the motor vehicles commissioner. The payment of such taxes by any such owner or operator shall not prejudice or affect the right of such owner or operator to obtain relief against the assessment or valuation of its property in proceedings now pending or hereafter brought under the provisions of section eight of this article, or in any suit, action or proceeding in which such relief may be obtainable; and if under the provisions of said section eight or in any suit, action or proceeding, it be ascertained that the assessment or valuation of the property of such owner or operator is too high and the same is accordingly corrected, it shall be the duty of the auditor of the state to issue to the owner or operator a certificate showing the amount of taxes and which have been overpaid, and such certificate shall be receivable thereafter for the amount of such overpayment in payment of any taxes and assessed against the property of such owner or operator, its successors or assigns. It shall likewise be the duty of said auditor to certify to the county commission, school districts and municipalities, the amounts of the respective overpayments distributable to such counties, school districts and municipalities.

Implementation of collection of assessments upon interstate commercial motor vehicles by the commissioner of motor vehicles shall begin the first day of July, one thousand nine hundred ninety-nine. The motor vehicles commissioner, upon receipt of funds from other jurisdictions under a proportional registration agreement, shall deliver such funds received to the auditor beginning in August, one thousand nine hundred ninety-nine, and thereafter every thirty days in arrears. All moneys received by the auditor under the provisions of this section shall be transmitted to the several counties within thirty days from receipt thereof.

§11-6⅔-13. No release of taxes assessed against such corporations.

Neither the county commission of any county, nor any board of education, nor the municipal authorities of any incorporated town, shall have jurisdiction, power or
authority, by compromise or otherwise, to remit or release any portion of the taxes so assessed upon the property of any such owner or operator. It shall be the duty of the motor vehicles commissioner to collect the whole thereof, regardless of any order or direction of any such county commission, board of education or municipal authority to the contrary; and, if he fail to do so, he and his sureties in his official bond, if any, shall, unless he be restrained or prohibited from so doing by legal process from some court having jurisdiction to issue the same, be liable thereon for such taxes that he may so fail to collect, if he could have collected the same by the use of due diligence. Any member of the county commission or board of education, or of the council of a municipal corporation, who shall vote to remit or release any part of the taxes, so assessed on the property of any such owner or operator, shall be guilty of a misdemeanor and fined five hundred dollars, and shall be removed from his office by the court by which the judgment of such fine is rendered, in addition to such fine.

§11-6D-14. Accounting for levies against interstate commercial motor vehicle corporations.

Subject to the provisions of subsection (b), section eleven of this article, when such taxes are paid into the treasury, the auditor shall account to the sheriff of each of the counties, to which any sum so paid in for county levies belongs, for the amount due such county, and may arrange the same with such sheriff in any settlement for state taxes in such a way as may be most convenient; and the sheriff shall account to the county commission of his county for the amount so received by him, in the same manner as for other county levies. The amount so paid for each district and independent school district shall be added to the distributable share of the school fund payable to such district, and shall be paid upon the requisition of the county superintendent of free schools in like manner as other school moneys are paid.

§11-6D-15. Certification by auditor of amount chargeable to sheriff from levies against interstate motor vehicles; payment of amount due municipality.
For collection year one thousand nine hundred ninety-nine, the auditor shall hold such funds in an interest bearing escrow account until March twentieth, two thousand, when such funds collected by the motor vehicles commissioner including the interest in the escrow account will be disbursed to the counties per the requirements of section eighteen of this article. Thereafter, the amount so paid in for each municipal corporation shall, within thirty days of being received by the auditor, be paid over to the sheriff, or the treasurer of such municipal corporation, or to such other officer of the municipality as the council may designate, and the auditor shall report such payment to the council. But the failure of the clerk of any county commission, or the secretary of any board of education, or the proper officer of any municipal corporation, to certify the levies to the auditor within the time herein prescribed shall not invalidate or prevent the assessment required by this article, but the auditor shall make the assessment and proceed to collect or certify the same to the sheriff as soon as practicable after he shall have obtained the information necessary to make such assessment.

§11-6D-16. Lien of taxes; notice; collection by suit.

The amount of taxes assessed under this article shall constitute a debt due the state or county, district or municipal corporation entitled thereto, and shall be a lien on all of the property and assets of the taxpayer within the state. The lien shall attach as of the thirty-first day of December following the commencement of the assessment year, and shall be prior to all other liens and charges. It shall be the duty of the attorney general to enforce the collection of such taxes, and for that purpose he may distrain upon any personal property of such delinquent taxpayer, or a sufficient amount thereof to satisfy said taxes, including accrued interest, penalties and costs.

The attorney general may also enforce the lien created by this section on the real estate of such delinquent taxpayer by instituting a suit, or suits, in equity in the circuit court of Kanawha County, in the name of the state, in which such delinquent taxpayers shall be made defendants. In the bill filed in any such suit it shall be
sufficient to allege that the defendant or defendants have
failed to pay the taxes hereunder and that each of them
justly owes the amount of property taxes, levies and
penalties stated therein, which amount shall be computed
up to the first day of the month in which the bill was filed.
No such defendant shall plead that the motor vehicles
commissioner failed to give notice as prescribed by this
section. If, upon the hearing of such suit, it shall appear to
the court that any defendant has failed to pay such taxes
and accrued penalties, the court shall enter a decree
against such defendant for the amount due, and if the
decree be not paid within ten days after made, the court
shall enter a decree directing a sale of the real estate
subject to said lien, or so much thereof as may be
necessary to satisfy said taxes, including interest, penalties
and costs. When two or more taxpayers are included in
one suit, the court shall apportion the cost thereof among
them as it may deem just.

§11-6D-17. Operating fund for interstate commerce disclosure
division in auditor's office.

The auditor shall establish a special operating fund in
the state treasury for the interstate commerce disclosure
division in his or her office. The auditor shall pay into the
fund three eighths of one percent of the gross receipts of
all moneys collected as provided for in this article. From
the fund, the auditor shall reimburse the department of tax
and revenue for the actual operating expenses incurred in
the performance of its duties required by this article. The
reimbursements to the tax department from the fund shall
not exceed fifty percent of the annual deposits to the
fund. Any moneys remaining in the special operating
fund after reimbursement to the tax department shall be
used by the auditor for funding the operation of the
interstate commerce disclosure division located in his
office.

The interstate commerce disclosure division is hereby
granted authority and required to share any and all
information obtained by the division in the
implementation of this article with state auditor, tax
commissioner and the commissioner of motor vehicles to
effectuate the collection of taxes under this article. The motor vehicles commissioner is hereby authorized and required to share any and all information obtained by the department of motor vehicles in the implementation of this article. The commissioner of motor vehicles will supply to the interstate commerce disclosure division the names of, location or locations of, and amount or amounts paid by West Virginia corporations registered under the terms of any proportional registration agreement. The tax commissioner is hereby authorized and required to share any and all information obtained by the department of tax and revenue. The state auditor and the interstate commerce disclosure division is hereby authorized and required to share any and all information obtained by the auditor or such division.


If any provisions of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or its application and to this end the provisions of this article are declared severable.

CHAPTER 17A.

MOTOR VEHICLE ADMINISTRATION, REGISTRATION, CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.

ARTICLE 2. DEPARTMENT OF MOTOR VEHICLES.


The motor vehicle commissioner in cooperation with the state auditor, state road commissioner, the public service commission and the department of public safety may enter into such reciprocal agreements as he may deem proper or expedient with the proper authorities of other states, regulating the use, on the roads and highways of this state, of trucks, automobiles and any other vehicles owned in such other states and duly licensed under the
laws thereof. The commissioner may confer and advise with the proper officers and legislative bodies of this and other states and federal districts of the United States, to promote reciprocal agreements under which the registration of vehicles owned in this state, and the licenses of operators and chauffeurs residing in this state shall be recognized by other states and federal districts.

§17A-2-10a. Same — Authorizing the entry of this state into reciprocal proportional registration agreements; payment of taxes; issuance of registration plates or markers; promulgation of rules; interagency cooperation; requirement that all registrants pay tax; intermittent interstate commerce and promulgation of rules; proportional registration agreement prevails.

(a) The commissioner of motor vehicles is hereby authorized and empowered to enter into reciprocal agreements on behalf of this state with any jurisdiction which permits or requires the licensing of motor vehicles in interstate or combined interstate and intrastate commerce and the payment of taxes, registration, licensing or other fees fixed by the motor vehicle commissioner, pursuant to the execution of this article on an apportionment basis commensurate with and determined by the miles traveled on public roads and highways in that jurisdiction, as compared with the miles traveled on public roads and highways in other jurisdictions or on any other equitable basis of apportionment, and if that jurisdiction exempts motor vehicles registered in other jurisdictions under that apportionment basis from the requirements of full payment of its own registration, license or other fixed fees, the commissioner, by agreement may adopt the exemption as to those motor vehicles, whether owned by residents or nonresidents of this state and regardless of where the vehicles are registered.

(b) The agreements under such terms, conditions or restrictions as the commissioner deems proper may provide that owners of motor vehicles operated in interstate or combined interstate and intrastate commerce in this state shall be permitted to pay registration, license
or other fees fixed on an apportionment basis, commensurate with and determined by the miles traveled on public roads and highways in this state as compared with the miles traveled on public roads and highways in other jurisdictions or any other equitable basis of apportionment. Such agreements shall not authorize or be construed as authorizing any motor vehicle so registered to be operated without complying with the provisions of chapter eleven and chapter twenty-four-a of this code.

(c) Pursuant to the provisions of this section, the commissioner is expressly authorized and empowered to enter into and become a member of the international registration plan or such other designation that may from time to time be given to such reciprocal plan.

(d) The commissioner shall prescribe the substance, form, color and context of any registration plate or marker issued under the provisions of this section, each of which shall be visually distinguishable from other registration plates or markers produced by the department of motor vehicles.

(e) The commissioner is authorized to promulgate procedural rules as may be necessary to carry out the provisions of any agreements entered into pursuant to this section.

(f) The commissioner is authorized to collect and receive funds under this article pursuant to the authority rested in him or her under article six of chapter eleven of this code.

(g) The commissioner is hereby authorized and required to share with the interstate commerce disclosure division of the office of the state auditor any and all information acquired by the department of motor vehicles pursuant to the implementation of this article. The department shall provide to the interstate commerce disclosure division, and the department of tax and revenue the name of the location and amount paid by West Virginia corporations registered under such proportional registration agreement.
(h) The department of motor vehicles shall not permit registration of any commercial vehicle without proof that the public utility tax assessed against it, if any, as certified by the board of public works, has been paid by production of a receipt from the division of public utilities in the office of the state auditor. All such registrants shall pay such assessments regardless of ownership.

(i) For any other irregular, intermittent, or temporary interstate commerce activity, the department of motor vehicles is hereby empowered to promulgate rules for the administration and oversight thereof.

(j) Notwithstanding any other provision of the code to the contrary, the requirements of the proportional assessment plan as contained in section one, article six, chapter eleven, et seq, and the provisions of this chapter, shall prevail in the event of any conflict with any other portion of the code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

Takes effect from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within ______ day of ________, 1998.

[Signature]
Governor

© [GOL-306-0]
PRESENTED TO THE
GOVERNOR
Date 3/23/48
Time 3:18 pm