WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1999

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2670

(By Delegate Warner)

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Passed March 13, 1999

In Effect Ninety Days from Passage
AN ACT to repeal sections seven-a, seven-b, article six, chapter eleven; and section one, article six-g, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections one and seven, article six of said chapter; to amend and reenact sections two, three, five, twelve, thirteen and seventeen, article six-g of said chapter; and to amend and reenact section ten-a, article two, chapter seventeen-a, all relating to the assessment of ad valorem fees on interstate motor vehicles; the disclosure and obtaining of information by the motor vehicles commissioner; and the duty and liability of the commissioner of motor vehicles to collect taxes and fees.

Be it enacted by the Legislature of West Virginia:

That sections seven-a, seven-b, article six, chapter eleven; and section one, article six-g, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections one and seven, article six of said chapter be amended and
reenacted; that sections two, three, five, twelve, thirteen and seventeen, article six-g of said chapter be amended and reenacted; and that section ten-a, article two, chapter seventeen-a 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.

(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; and (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.
(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 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.

(e) 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.

§11-6-7. Same — Telegraph and telephone companies.

In the case of a telegraph or telephone line, the report shall show for every owner or operator: (a) The number of miles of lines owned, leased or operated within this state, the gauge of
the wire, the number of strands of wire, the material of which it is made and, as accurately as may be, the time when the line or any material part thereof was constructed or last replaced; (b) if such lines be partly within and partly without the state, the whole number of miles thereof within this state and the whole number of miles without this state, including all branches and connecting lines in and out of the state; (c) the true and actual value per mile of such line in each county of this state; (d) its stations, shops and machinery therein, and all buildings, structures and appendages connected or used therewith, together with all real estate, other than its telegraph or telephone line, owned or used by it in connection with its line, and of each parcel of such real estate and the true and actual value thereof in each county in this state in which it is located; (e) its personal property of every kind whatsoever, including money, credits and investments, and the amounts thereof wholly held or used in this state, showing the amount and value thereof in each county; (f) an itemized list of all other real property within this state, with the location thereof; and (g) the actual capital employed in the business of such owner or operator, the total amount of the bonded indebtedness of the owner or operator, with respect to the line, and of all indebtedness not bonded; and, if the owner or operator be a corporation, its capital stock, the character, number, amount and the market value of the shares thereof, and the amount of capital stock actually paid in; its bonded indebtedness and its indebtedness not bonded. The board of public works shall have the right to require any such owner or operator to furnish such other and further information as, in the judgment of the board, may be of use to it in determining the true and actual value of the property to be assessed to the owner or operator.

ARTICLE 6G. ASSESSMENT OF INTERSTATE CORPORATION MOTOR VEHICLE BUSINESS REGISTERED UNDER A PROMOTIONAL REGISTRATION AGREEMENT.


(a) "Interstate motor vehicle," for purposes of this article, is defined as every truck, road tractor or semitrailer used as an
interstate 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 an 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 promulgated by the tax commissioner.


(a) In the case of interstate 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 fees 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 remainder 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, which appraised value
shall be multiplied by sixty percent to yield the assessed value;
(2) for the interstate truck, road tractor, or power unit, regis-
tered in this state as part of a fleet registered under any propor-
tional registration agreement under the provisions of section
ten-a, article two, chapter seventeen-a of this code, the assessed
value shall be multiplied by the apportioned percentage
calculated in accordance with the articles and by-laws of any
proportional registration agreement for the mileage reporting
year, as reported to the division of motor vehicles for the
registration year pursuant to any proportional
registration agreement on file therewith to obtain the apor-
tioned value, which apportioned value shall be multiplied by the
applicable rate of tax.
§11-6G-5. Compelling such disclosure; procuring information
and tentative assessments by motor vehicles
commissioner.

(a) If any owner or operator fails to make disclosure within
the time required by section one of this article, it shall be the
duty of the commissioner of motor vehicles to take 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 commis-
sioner shall be examined by him or her, and if it be found
insufficient in form or in any respect defective, imperfect or not
in compliance with law, he or she 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 owner or operator fails to make such disclosure,
the motor vehicles commissioner shall proceed, in a manner as
to him or her may seem best, to obtain the facts and information
required to be furnished by the 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 the motor vehicles commissioner, to enable him or her to obtain the information required for the proper discharge of his or her duties under this section.

§11-6G-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 the foreign registered owner or operator with interstate operations within and through West Virginia, so assessed and charged, to pay annually the amount of such ad valorem fees, 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. Further, beginning with the renewal or registration year starting the first day of July, one thousand nine hundred ninety-nine, it shall be the duty of the commissioner of motor vehicles to assess and charge the owner or operator the annual amount of ad valorem fees and registration fees owed. The ad valorem and registration fees will be assessed and charged annually prior to the registration year during the renewal period. It shall be the duty of the owner or operator with interstate operations and domiciled in the state, so assessed and charged, to pay annually prior to the registration, the amount of taxes and registration fees set by the motor vehicles commissioner in the form and manner prescribed by him or her. The payment of taxes by any owner or operator shall not prejudice or affect the right of the 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 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 the 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 the certificate shall be receivable thereafter for the amount of overpayment in payment of any ad valorem fees and assessed against the property of the 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 the 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.

§11-6G-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 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 county commission, board of education or municipal authority to the contrary. 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 owner or operator, shall be guilty of a misdemeanor and fined five hundred dollars, and shall be removed from his or her office by the court by which the judgment of the fine is rendered, in addition to the fine.
§11-6G-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 one percent of the gross receipts of all moneys collected as provided for in this article. From the fund, the auditor shall reimburse the tax division and the division of motor vehicles for the actual operating expenses incurred in the performance of its duties required by this article. The reimbursements to the tax division and division of motor vehicles from the fund shall not exceed one-third of the annual deposits to the fund per agency. Any moneys remaining in the special operating fund after reimbursement to the tax division and the division of motor vehicles shall be used by the auditor for funding the operation of the interstate commerce disclosure division located in his or her 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 and fees under this article. The motor vehicles commissioner is hereby authorized and required to share any and all information obtained by the division 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 owners or operators of interstate motor vehicles 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 the division.
CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION, CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.

ARTICLE 2. DEPARTMENT OF MOTOR VEHICLES.

§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 any terms, conditions or restrictions as the commissioner considers 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 apportion-
ment. The 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 commis-
sioner is expressly authorized and empowered to enter into and
become a member of the international registration plan or other
designation that may from time to time be given to the recipro-
cal 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 division of motor vehicles.

(e) The commissioner is authorized to promulgate proce-
dural 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 vested in him
or her under article six-g 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 division of motor vehicles pursuant to the implementation
of this article. The division 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 owners or operators of interstate motor vehicles
registered under the proportional registration agreement.

(h) For any other irregular, intermittent or temporary
interstate commerce activity, the division 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 article six-g, chapter eleven of this code, and the provisions of this chapter, shall prevail in the event of any conflict with any other portion of the code.
That 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 2nd day of April, 1999.

Governor