WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999

ENROLLED

SENATE BILL NO. 244

(By Senator Ross)

PASSED

In Effect Ninety Days from Passage

March 13, 1999
ENROLLED

Senate Bill No. 244

(BY SENATOR ROSS)

[Passed March 13, 1999; in effect ninety days from passage.]

AN ACT to amend and reenact sections two and seven, article fourteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to changing the definition of "motor carrier"; and eliminating the limitation that a trip permit can only be issued three times in one fiscal year.

Be it enacted by the Legislature of West Virginia:

That sections two and seven, article fourteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 14A. MOTOR CARRIER ROAD TAX.


1 For purposes of this article:
(1) "Commissioner" or "tax commissioner" means the tax commissioner of the state of West Virginia or his duly authorized agent.

(2) "Gallon" means two hundred thirty-one cubic inches of liquid measurement, by volume: Provided, That the commissioner may by rule prescribe other measurement or definition of gallon.

(3) "Gasoline" means any product commonly or commercially known as gasoline, regardless of classification, suitable for use as fuel in an internal combustion engine, except special fuel as hereinafter defined.

(4) "Highway" means every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel, which is maintained by this state or some taxing subdivision or unit thereof or the federal government or any of its agencies.

(5) "Identification marker" means the decal issued by the commissioner for display upon a particular motor carrier and authorizing a person to operate or cause to be operated a motor carrier upon any highway of the state.

(6) "Lease" means any oral or written contract for valuable consideration granting the use of a motor carrier.

(7) "Motor carrier" means any vehicle used, designed or maintained for the transportation of persons or property and having two axles and a gross vehicle weight exceeding twenty-six thousand pounds or having three or more axles regardless of weight or is used in combination when the weight of such combination exceeds twenty-six thousand pounds or registered gross vehicle weight: Provided, That the gross vehicle weight rating of the vehicles being towed is in excess of ten thousand pounds. The term motor carrier does not include any type of recreational vehicle.

(8) "Operation" means any operation of any motor carrier, whether loaded or empty, whether for compensation or not, and whether owned by or leased to the person who operates or causes to be operated such motor carrier.
(9) "Person" means and includes any individual, firm, partnership, limited partnership, joint adventure, association, company, corporation, organization, syndicate, receiver, trust or any other group or combination acting as a unit, in the plural as well as the singular number, and means and includes the officers, directors, trustees or members of any firm, partnership, limited partnership, joint adventure, association, company, corporation, organization, syndicate, receiver, trust or any other group or combination acting as a unit, in the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(10) "Pool operation" means any operation whereby two or more taxpayers combine to operate or cause to be operated a motor carrier or motor carriers upon any highway in this state.

(11) "Purchase" means and includes any acquisition of ownership of property or of a security interest for a consideration.

(12) "Recreational vehicles" means vehicles such as motor homes, pickup trucks with attached campers and buses, when used exclusively for personal pleasure by an individual. In order to qualify as a recreational vehicle, the vehicle shall not be used in connection with any business endeavor.

(13) "Road tractor" means every motor carrier designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

(14) "Sale" means any transfer, exchange, gift, barter or other disposition of any property or security interest for a consideration.

(15) "Special fuel" means any gas or liquid, other than gasoline, used or suitable for use as fuel in an internal combustion engine. The term "special fuel" shall include products commonly known as natural or casinghead gasoline but shall not include any petroleum product or chemical compound such as alcohol, industrial solvent,
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76 heavy furnace oil, lubricant, etc., not commonly used nor
77 practicably suited for use as fuel in an internal combustion
78 engine.

79 (16) "Tax" includes, within its meaning, interest, additions
80 to tax and penalties, unless the intention to give it a
81 more limited meaning is disclosed by the context.

82 (17) "Taxpayer" means any person liable for any tax,
83 interest, additions to tax or penalty under the provisions
84 of this article.

85 (18) "Tractor truck" means every motor carrier designed
86 and used primarily for drawing other vehicles and not so
87 constructed as to carry a load other than a part of the
88 weight of the vehicle and load so drawn.

89 (19) "Truck" means every motor carrier designed, used
90 or maintained primarily for the transportation of property
91 and having more than two axles.

§11-14A-7. Identification markers; fees; criminal penalty.

1 (a) Registration of motor carriers. – No person may
2 operate, or cause to be operated, in this state any motor
3 carrier subject to this article without first securing from
4 the commissioner an identification marker for each such
5 motor carrier, except as provided in subsection (b) or (c) of
6 this section. Each identification marker for a particular
7 motor carrier shall bear a number. This identification
8 marker shall be displayed on the driver's side of the motor
9 carrier as required by the commissioner. The commis-
10 sioner, after issuance of any identification marker to a
11 motor carrier, shall cause an internal cross-check to be
12 made in his office as to any state tax which he administers,
13 to aid in determination of any noncompliance in respect to
14 failure to file returns or payment of tax liabilities. The
15 identification markers herein provided for shall be valid
16 for the period of one year, ending December thirty-first of
17 each year. A fee of five dollars shall be paid to the com-
18 missioner for issuing each identification marker which is
19 reasonably related to the commissioner's costs of issuing
20 such identification. All tax or reports due under this
21 article shall be paid or reports filed before the issuance of
a new identification marker. Failure by a taxpayer to file
the returns or pay the taxes imposed by this article shall
give cause to the commissioner to revoke or refuse to
renew the identification marker previously issued.

(b) Trip permit. – A motor carrier that does not have a
motor carrier identification marker issued under subsec-
tion (a) of this section may obtain a trip permit which
authorizes the motor carrier specified therein to be
operated in this state without an identification marker for
a period of not more than ten consecutive days beginning
and ending on the dates specified on the face of the permit.
The fee for this permit shall be twenty-four dollars.

(1) Fees for trip permits shall be in lieu of the tax
otherwise due under this article on account of the vehicles
specified in the permit operating in this state during the
period of the permit, and no reports of mileage shall be
required with respect to that vehicle.

(2) A trip permit shall be carried in the cab of the motor
vehicle for which it was issued at all times while it is in
this state.

(3) A trip permit may be obtained from the commissioner
or from wire services authorized by the commissioner to
issue such permits. The cost of the telegram or similar
transmissions shall be the responsibility of the motor
carrier requesting the trip permit.

(c) Transportation permit. – The commissioner is hereby
authorized to grant, in his discretion, a special permit to a
new motor vehicle dealer for use on new motor vehicles
driven under their own power from the factory or distrib-
uting place of a manufacturer, or other dealer, to a place
of business of the new vehicle dealer, or from the place of
business of a new vehicle dealer to a place of business of
another dealer, or when delivered from the place of
business of the new vehicle dealer to the place of business
of a purchaser to whom title passes on delivery. A trans-
porter's permit must be carried in the cab of the motor
vehicle being transported. A person to whom a trans-
porter's permit is issued shall file the reports required by
section five of this article and pay any tax due. The fee for
such transporter's permit shall be fifteen dollars and a
transporter's permit is valid for the fiscal year for which
it is issued unless surrendered or revoked by the tax
commissioner.

(d) Criminal penalty. — Any person, whether such person
be the owner, licensee or lessee, or the employee, servant
or agent thereof, who operates or causes to be operated in
this state, a motor carrier in violation of this section, is
guilty of a misdemeanor and, upon conviction thereof,
shall be fined not less than fifty nor more than five hun-
dred dollars; and each day such violation continues or
reoccurs shall constitute a separate offense.

(e) Notwithstanding the provisions of section five-d,
article ten of this chapter, the commissioner shall deliver
to or receive from the commissioner of the division of
motor vehicles and the commissioner of the public service
commission, the information contained in the application
filed by a motor carrier for a trip permit under this
section, when the information is used to administer a
combined trip permit registration program for motor
 carriers operating in this state, which program may be
administered by one agency or any combination of the
three agencies, as embodied in a written agreement
executed by the head of each agency participating in the
program. Such agencies have authority to enter into such
an agreement notwithstanding any provision of this code
to the contrary; and the fee for such combined trip permit
shall be twenty-four dollars, which shall be in lieu of the
fee set forth in subsection (b) of this section.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the Senate.
In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within .................. this the .............................. Day of ............... April .................................., 1999

Governor