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WEST VIRGINIA LEGISLATURE

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REGULAR SESSION, 1999



ENROLLED

SENATE BILL NO. 244

(By Senator Ross)



PASSED MARCH 13, 1999

In Effect NINETY Days from Passage

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SENATE
CLERK

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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.

§11-14A-2. Definitions.

1 For purposes of this article:

2 (1) "Commissioner" or "tax commissioner" means the
3 tax commissioner of the state of West Virginia or his duly
4 authorized agent.

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

9 (3) "Gasoline" means any product commonly or commer-
10 cially known as gasoline, regardless of classification,
11 suitable for use as fuel in an internal combustion engine,
12 except special fuel as hereinafter defined.

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

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

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

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

34 (8) "Operation" means any operation of any motor
35 carrier, whether loaded or empty, whether for compensa-
36 tion or not, and whether owned by or leased to the person
37 who operates or causes to be operated such motor carrier.

38 (9) "Person" means and includes any individual, firm,
39 partnership, limited partnership, joint adventure, associa-
40 tion, company, corporation, organization, syndicate,
41 receiver, trust or any other group or combination acting as
42 a unit, in the plural as well as the singular number, and
43 means and includes the officers, directors, trustees or
44 members of any firm, partnership, limited partnership,
45 joint adventure, association, company, corporation,
46 organization, syndicate, receiver, trust or any other group
47 or combination acting as a unit, in the plural as well as the
48 singular number, unless the intention to give a more
49 limited meaning is disclosed by the context.

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

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

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

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

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

70 (15) "Special fuel" means any gas or liquid, other than
71 gasoline, used or suitable for use as fuel in an internal
72 combustion engine. The term "special fuel" shall include
73 products commonly known as natural or casinghead
74 gasoline but shall not include any petroleum product or
75 chemical compound such as alcohol, industrial solvent,

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, addi-
80 tions 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

22 a new identification marker. Failure by a taxpayer to file
23 the returns or pay the taxes imposed by this article shall
24 give cause to the commissioner to revoke or refuse to
25 renew the identification marker previously issued.

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

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

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

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

47 (c) *Transportation permit.* – The commissioner is hereby
48 authorized to grant, in his discretion, a special permit to a
49 new motor vehicle dealer for use on new motor vehicles
50 driven under their own power from the factory or distrib-
51 uting place of a manufacturer, or other dealer, to a place
52 of business of the new vehicle dealer, or from the place of
53 business of a new vehicle dealer to a place of business of
54 another dealer, or when delivered from the place of
55 business of the new vehicle dealer to the place of business
56 of a purchaser to whom title passes on delivery. A trans-
57 porter's permit must be carried in the cab of the motor
58 vehicle being transported. A person to whom a trans-
59 porter's permit is issued shall file the reports required by
60 section five of this article and pay any tax due. The fee for

61 such transporter's permit shall be fifteen dollars and a
62 transporter's permit is valid for the fiscal year for which
63 it is issued unless surrendered or revoked by the tax
64 commissioner.

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

73 (e) Notwithstanding the provisions of section five-d,
74 article ten of this chapter, the commissioner shall deliver
75 to or receive from the commissioner of the division of
76 motor vehicles and the commissioner of the public service
77 commission, the information contained in the application
78 filed by a motor carrier for a trip permit under this
79 section, when the information is used to administer a
80 combined trip permit registration program for motor
81 carriers operating in this state, which program may be
82 administered by one agency or any combination of the
83 three agencies, as embodied in a written agreement
84 executed by the head of each agency participating in the
85 program. Such agencies have authority to enter into such
86 an agreement notwithstanding any provision of this code
87 to the contrary; and the fee for such combined trip permit
88 shall be twenty-four dollars, which shall be in lieu of the
89 fee set forth in subsection (b) of this section.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Paul Schorner
.....
Chairman Senate Committee

Joe F. Anita
.....
Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

Harrell Holmes
.....
Clerk of the Senate

Gregg D. Bay
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *approved* this the *15th*
Day of *April*, 1999

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

3/25/99

Time

1:45pm