

HB 2670

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GOVERNMENT PRINTING OFFICE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 2670

(By Delegate Warner)



Passed March 13, 1999

In Effect Ninety Days from Passage

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OFFICE OF THE CLERK
SPECIAL SERVICES DIVISION

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 2670

(BY DELEGATE WARNER)

[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one, article six-g, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections one and seven, article six of said chapter be amended and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.

1 (a) On or before the first day of May in each year a return
2 in writing shall be filed with the board of public works: (1) By
3 the owner or operator of every railroad, wholly or in part,
4 within this state; (2) by the owner or operator of every railroad
5 bridge upon which a separate toll or fare is charged; (3) by the
6 owner or operator of every car or line of cars used upon any
7 railroad within the state for transportation or accommodation of
8 freight or passengers, other than the owners or operators as may
9 own or operate a railroad within the state; (4) by the owner or
10 operator of every express company or express line, wholly or in
11 part, within this state, used for the transportation by steam or
12 otherwise of freight and other articles of commerce; (5) by the
13 owner or operator of every pipeline, wholly or in part, within
14 this state, used for the transportation of oil or gas or water,
15 whether the oil or gas or water be owned by the owner or
16 operator or not, or for the transmission of electrical or other
17 power, or the transmission of steam or heat and power or of
18 articles by pneumatic or other power; (6) by the owner or
19 operator of every telegraph or telephone line, wholly or in part,
20 within this state, except private lines not operated for compen-
21 sation; (7) by the owner and operator of every gas company and
22 electric lighting company furnishing gas or electricity for
23 lighting, heating or power purposes; (8) by the owner or
24 operator of hydroelectric companies for the generation and
25 transmission of light, heat or power; (9) by the owner or
26 operator of water companies furnishing or distributing water;
27 and (10) by the owner or operator of all other public service
28 corporations or persons engaged in public service business
29 whose property is located, wholly or in part, within this state.

30 (b) The words "owner or operator," as applied herein to
31 railroad companies, shall include every railroad company
32 incorporated by or under the laws of this state for the purpose
33 of constructing and operating a railroad, or of operating part of
34 a railroad within this state, whether the railroad or any part of
35 it be in operation or not; and shall also include every other
36 railroad company, or persons or associations of persons, owning
37 or operating a railroad or part of a railroad in this state on which
38 freight or passengers, or both, are carried for compensation. The
39 word "railroad," as used herein includes every street, city,
40 suburban or electric or other railroad or railway.

41 (c) The words "owner or operator," as applied herein to
42 express companies, shall include every express company
43 incorporated by or under the laws of this state, or doing
44 business in this state, whether incorporated or not, and any
45 person or association of persons, owning or operating any
46 express company or express line upon any railroad or other-
47 wise, doing business partly or wholly within this state.

48 (d) The return shall be signed and sworn to by the owner or
49 operator if a natural person, or, if the owner or operator shall be
50 a corporation, shall be signed and sworn to by its president, vice
51 president, secretary or principal accounting officer.

52 (e) The return required by this section of every owner or
53 operator shall cover the year ending on the thirty-first day of
54 December, next preceding, and shall be made on forms pre-
55 scribed by the board of public works, which board is hereby
56 invested with full power and authority and it is hereby made its
57 duty to prescribe the forms as will require from any owner or
58 operator herein mentioned information as in the judgment of the
59 board may be of use to it in determining the true and actual
60 value of the properties of the owners or operators.

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

1 In the case of a telegraph or telephone line, the report shall
2 show for every owner or operator: (a) The number of miles of
3 lines owned, leased or operated within this state, the gauge of

4 the wire, the number of strands of wire, the material of which
5 it is made and, as accurately as may be, the time when the line
6 or any material part thereof was constructed or last replaced; (b)
7 if such lines be partly within and partly without the state, the
8 whole number of miles thereof within this state and the whole
9 number of miles without this state, including all branches and
10 connecting lines in and out of the state; (c) the true and actual
11 value per mile of such line in each county of this state; (d) its
12 stations, shops and machinery therein, and all buildings,
13 structures and appendages connected or used therewith,
14 together with all real estate, other than its telegraph or tele-
15 phone line, owned or used by it in connection with its line, and
16 of each parcel of such real estate and the true and actual value
17 thereof in each county in this state in which it is located; (e) its
18 personal property of every kind whatsoever, including money,
19 credits and investments, and the amounts thereof wholly held
20 or used in this state, showing the amount and value thereof in
21 each county; (f) an itemized list of all other real property within
22 this state, with the location thereof; and (g) the actual capital
23 employed in the business of such owner or operator, the total
24 amount of the bonded indebtedness of the owner or operator,
25 with respect to the line, and of all indebtedness not bonded;
26 and, if the owner or operator be a corporation, its capital stock,
27 the character, number, amount and the market value of the
28 shares thereof, and the amount of capital stock actually paid in;
29 its bonded indebtedness and its indebtedness not bonded. The
30 board of public works shall have the right to require any such
31 owner or operator to furnish such other and further information
32 as, in the judgment of the board, may be of use to it in deter-
33 mining the true and actual value of the property to be assessed
34 to the owner or operator.

**ARTICLE 6G. ASSESSMENT OF INTERSTATE CORPORATION MOTOR
VEHICLE BUSINESS REGISTERED UNDER A PROMO-
TIONAL REGISTRATION AGREEMENT.**

**§11-6G-2. Disclosure of required information to the tax commis-
sioner.**

1 (a) "Interstate motor vehicle," for purposes of this article,
2 is defined as every truck, road tractor or semitrailer used as an

3 interstate motor vehicle registered under a proportional registra-
4 tion agreement.

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

7 (c) The words "owner or operator," as applied herein to
8 trucks or semitrailers used as an interstate motor vehicle in the
9 transportation of property, shall include every company
10 incorporated by or under the laws of this state, or doing
11 business in this state, whether incorporated or not, and any
12 person or association of persons, owning or operating any truck
13 or semitrailer used as an interstate motor vehicle in the trans-
14 portation of property doing business partly or wholly within this
15 state.

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

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

1 (a) In the case of interstate motor vehicles used for the
2 transportation of property and which are registered under a
3 proportional registration agreement, pursuant to the provisions
4 of section ten-a, article two, chapter seventeen-a of this code,
5 the owners, operator or operators, for each interstate motor
6 vehicle, on forms prescribed by the commissioner of motor
7 vehicles, shall disclose the total miles driven in West Virginia
8 and the total miles driven in any other states as reported in the
9 most recent taxable year to the division of motor vehicles
10 pursuant to any proportional registration agreement on file
11 therewith. The return shall, additionally, show the gross capital
12 cost of the interstate motor vehicle to the purchaser thereof and
13 the year the purchaser acquired the interstate motor vehicle.

14 (b) Ad valorem fees provided for in this chapter shall,
15 notwithstanding the provisions of section five, article one-c of
16 this chapter, be determined as follows for: (1) The gross capital
17 cost of an interstate motor vehicle shall be multiplied by a
18 percentage factor representing the remainder of the vehicle's

19 value after depreciation according to a depreciation schedule
20 established by the tax commissioner, which calculation shall
21 yield the appraised value of the vehicle, which appraised value
22 shall be multiplied by sixty percent to yield the assessed value;
23 (2) for the interstate truck, road tractor, or power unit, regis-
24 tered in this state as part of a fleet registered under any propor-
25 tional registration agreement under the provisions of section
26 ten-a, article two, chapter seventeen-a of this code, the assessed
27 value shall be multiplied by the apportioned percentage
28 calculated in accordance with the articles and by-laws of any
29 proportional registration agreement for the mileage reporting
30 year, as reported to the division of motor vehicles for the
31 corresponding registration year pursuant to any proportional
32 registration agreement on file therewith to obtain the appor-
33 tioned value, which apportioned value shall be multiplied by the
34 applicable rate of tax.

**§11-6G-5. Compelling such disclosure; procuring information
and tentative assessments by motor vehicles
commissioner.**

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

9 (b) The disclosure delivered to the motor vehicles commis-
10 sioner shall be examined by him or her, and if it be found
11 insufficient in form or in any respect defective, imperfect or not
12 in compliance with law, he or she shall compel the person
13 required to make it to do so in proper and sufficient form, and
14 in all respects as required by law.

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

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

§11-6G-12. Payment of assessment by owner or operator.

1 Beginning on the first day of July, one thousand nine
2 hundred ninety-nine, it shall be the duty of the foreign regis-
3 tered owner or operator with interstate operations within and
4 through West Virginia, so assessed and charged, to pay annu-
5 ally the amount of such ad valorem fees, and such registration
6 fees as are set by the motor vehicles commissioner as are
7 required into the treasury of the state by delivering payment of
8 the same to the commissioner of motor vehicles in the form and
9 manner prescribed by him or her. Further, beginning with the
10 renewal or registration year starting the first day of July, one
11 thousand nine hundred ninety-nine, it shall be the duty of the
12 commissioner of motor vehicles to assess and charge the owner
13 or operator the annual amount of ad valorem fees and registra-
14 tion fees owed. The ad valorem and registration fees will be
15 assessed and charged annually prior to the registration year
16 during the renewal period. It shall be the duty of the owner or
17 operator with interstate operations and domiciled in the state, so
18 assessed and charged, to pay annually prior to the registration,
19 the amount of taxes and registration fees set by the motor
20 vehicles commissioner in the form and manner prescribed by
21 him or her. The payment of taxes by any owner or operator
22 shall not prejudice or affect the right of the owner or operator
23 to obtain relief against the assessment or valuation of its
24 property in proceedings now pending or hereafter brought under
25 the provisions of section eight of this article, or in any suit,
26 action or proceeding in which relief may be obtainable; and if
27 under the provisions of said section eight or in any suit, action
28 or proceeding, it be ascertained that the assessment or valuation
29 of the property of the owner or operator is too high and the
30 same is accordingly corrected, it shall be the duty of the auditor
31 of the state to issue to the owner or operator a certificate

32 showing the amount of taxes and which have been overpaid,
33 and the certificate shall be receivable thereafter for the amount
34 of overpayment in payment of any ad valorem fees and assessed
35 against the property of the owner or operator, its successors or
36 assigns. It shall likewise be the duty of said auditor to certify to
37 the county commission, school districts and municipalities, the
38 amounts of the respective overpayments distributable to such
39 counties, school districts and municipalities.

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

§11-6G-13. No release of taxes assessed against such corporations.

1 Neither the county commission of any county, nor any
2 board of education, nor the municipal authorities of any
3 incorporated town, shall have jurisdiction, power or authority,
4 by compromise or otherwise, to remit or release any portion of
5 the taxes so assessed upon the property of any owner or
6 operator. It shall be the duty of the motor vehicles commis-
7 sioner to collect the whole thereof, regardless of any order or
8 direction of any county commission, board of education or
9 municipal authority to the contrary. Any member of the county
10 commission or board of education, or of the council of a
11 municipal corporation, who shall vote to remit or release any
12 part of the taxes, so assessed on the property of any owner or
13 operator, shall be guilty of a misdemeanor and fined five
14 hundred dollars, and shall be removed from his or her office by
15 the court by which the judgment of the fine is rendered, in
16 addition to the fine.

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

1 The auditor shall establish a special operating fund in the
2 state treasury for the interstate commerce disclosure division in
3 his or her office. The auditor shall pay into the fund one percent
4 of the gross receipts of all moneys collected as provided for in
5 this article. From the fund, the auditor shall reimburse the tax
6 division and the division of motor vehicles for the actual
7 operating expenses incurred in the performance of its duties
8 required by this article. The reimbursements to the tax division
9 and division of motor vehicles from the fund shall not exceed
10 one-third of the annual deposits to the fund per agency. Any
11 moneys remaining in the special operating fund after reim-
12 bursement to the tax division and the division of motor vehicles
13 shall be used by the auditor for funding the operation of the
14 interstate commerce disclosure division located in his or her
15 office.

16 The interstate commerce disclosure division is hereby
17 granted authority and required to share any and all information
18 obtained by the division in the implementation of this article
19 with state auditor, tax commissioner and the commissioner of
20 motor vehicles to effectuate the collection of taxes and fees
21 under this article. The motor vehicles commissioner is hereby
22 authorized and required to share any and all information
23 obtained by the division of motor vehicles in the implementa-
24 tion of this article. The commissioner of motor vehicles will
25 supply to the interstate commerce disclosure division the names
26 of, location or locations of, and amount or amounts paid by
27 West Virginia owners or operators of interstate motor vehicles
28 registered under the terms of any proportional registration
29 agreement. The tax commissioner is hereby authorized and
30 required to share any and all information obtained by the
31 department of tax and revenue. The state auditor and the
32 interstate commerce disclosure division is hereby authorized
33 and required to share any and all information obtained by the
34 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.

1 (a) The commissioner of motor vehicles is hereby autho-
2 rized and empowered to enter into reciprocal agreements on
3 behalf of this state with any jurisdiction which permits or
4 requires the licensing of motor vehicles in interstate or com-
5 bined interstate and intrastate commerce and the payment of
6 taxes, registration, licensing or other fees fixed by the motor
7 vehicle commissioner, pursuant to the execution of this article
8 on an apportionment basis commensurate with and determined
9 by the miles traveled on public roads and highways in that
10 jurisdiction, as compared with the miles traveled on public
11 roads and highways in other jurisdictions or on any other
12 equitable basis of apportionment, and if that jurisdiction
13 exempts motor vehicles registered in other jurisdictions under
14 that apportionment basis from the requirements of full payment
15 of its own registration, license or other fixed fees, the commis-
16 sioner, by agreement may adopt the exemption as to those
17 motor vehicles, whether owned by residents or nonresidents of
18 this state and regardless of where the vehicles are registered.

19 (b) The agreements under any terms, conditions or restric-
20 tions as the commissioner considers proper may provide that
21 owners of motor vehicles operated in interstate or combined
22 interstate and intrastate commerce in this state shall be permit-
23 ted to pay registration, license or other fees fixed on an appor-
24 tionment basis, commensurate with and determined by the
25 miles traveled on public roads and highways in this state as

26 compared with the miles traveled on public roads and highways
27 in other jurisdictions or any other equitable basis of apportion-
28 ment. The agreements shall not authorize or be construed as
29 authorizing any motor vehicle so registered to be operated
30 without complying with the provisions of chapter eleven and
31 chapter twenty-four-a of this code.

32 (c) Pursuant to the provisions of this section, the commis-
33 sioner is expressly authorized and empowered to enter into and
34 become a member of the international registration plan or other
35 designation that may from time to time be given to the recipro-
36 cal plan.

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

42 (e) The commissioner is authorized to promulgate proce-
43 dural rules as may be necessary to carry out the provisions of
44 any agreements entered into pursuant to this section.

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

48 (g) The commissioner is hereby authorized and required to
49 share with the interstate commerce disclosure division of the
50 office of the state auditor any and all information acquired by
51 the division of motor vehicles pursuant to the implementation
52 of this article. The division shall provide to the interstate
53 commerce disclosure division, and the department of tax and
54 revenue the name of the location and amount paid by West
55 Virginia owners or operators of interstate motor vehicles
56 registered under the proportional registration agreement.

57 (h) For any other irregular, intermittent or temporary
58 interstate commerce activity, the division of motor vehicles is
59 hereby empowered to promulgate rules for the administration
60 and oversight thereof.

Enr. Com. Sub. for H. B. 2670] 12

61 (i) Notwithstanding any other provision of the code to the
62 contrary, the requirements of the proportional assessment plan
63 as contained in article six-g, chapter eleven of this code, and the
64 provisions of this chapter, shall prevail in the event of any
65 conflict with any other portion of the code.

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



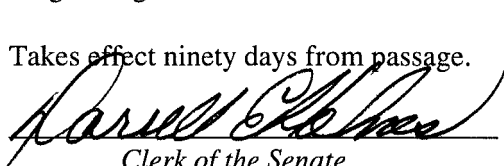
Chairman Senate Committee



Chairman House Committee

Originating in the House.

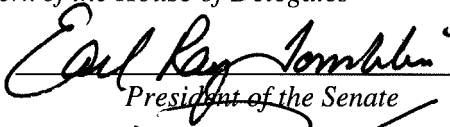
Takes effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

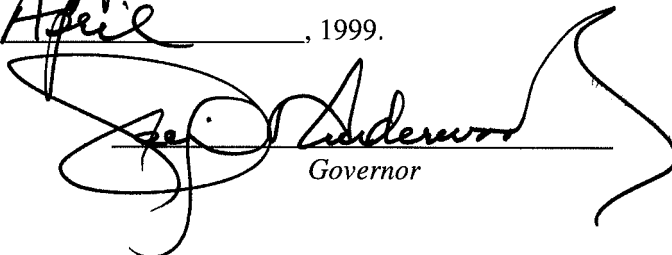


President of the Senate



Speaker of the House of Delegates

The within approved this the 2nd
day of April, 1999.



Governor

PRESENTED TO THE

GOVERNOR

Date 3/30/99

Time 3:38 pm