

SB 384

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999



ENROLLED

SENATE BILL NO. 384

(By Senator BAILEY)



PASSED MARCH 9, 1999

In Effect NINETY DAYS FROM Passage

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SECRETARY OF STATE

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Senate Bill No. 384

(BY SENATOR BAILEY)

[Passed March 9, 1999; in effect ninety days from passage.]

AN ACT to amend and reenact section four, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to removing the privilege tax on vehicles sold to automobile rental businesses; and imposing a daily tax of twenty-five cents to be paid by the rental business.

Be it enacted by the Legislature of West Virginia:

That section four, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.

§17A-3-4. Application for certificate of title; tax for privilege of certification of title; penalty for false swearing.

- 1 (a) Certificates of registration of any vehicle or registra-
- 2 tion plates for the vehicle, whether original issues or

3 duplicates, may not be issued or furnished by the division
4 of motor vehicles or any other officer charged with the
5 duty, unless the applicant therefor already has received, or
6 at the same time makes application for and is granted, an
7 official certificate of title of the vehicle. The application
8 shall be upon a blank form to be furnished by the division
9 of motor vehicles and shall contain a full description of the
10 vehicle, which description shall contain a manufacturer's
11 serial or identification number or other number as deter-
12 mined by the commissioner and any distinguishing marks,
13 together with a statement of the applicant's title and of
14 any liens or encumbrances upon the vehicle, the names and
15 addresses of the holders of the liens and any other infor-
16 mation as the division of motor vehicles may require. The
17 application shall be signed and sworn to by the applicant.

18 (b) A tax is imposed upon the privilege of effecting the
19 certification of title of each vehicle in the amount equal to
20 five percent of the value of the motor vehicle at the time of
21 the certification, to be assessed as follows:

22 (1) If the vehicle is new, the actual purchase price or
23 consideration to the purchaser of the vehicle is the value
24 of the vehicle. If the vehicle is a used or secondhand
25 vehicle, the present market value at time of transfer or
26 purchase is the value of the vehicle for the purposes of this
27 section: *Provided*, That so much of the purchase price or
28 consideration as is represented by the exchange of other
29 vehicles on which the tax imposed by this section has been
30 paid by the purchaser shall be deducted from the total
31 actual price or consideration paid for the vehicle, whether
32 the vehicle be new or secondhand. If the vehicle is ac-
33 quired through gift, or by any manner whatsoever, unless
34 specifically exempted in this section, the present market
35 value of the vehicle at the time of the gift or transfer is the
36 value of the vehicle for the purposes of this section.

37 (2) No certificate of title for any vehicle may be issued to
38 any applicant unless the applicant has paid to the division
39 of motor vehicles the tax imposed by this section which is
40 five percent of the true and actual value of the vehicle
41 whether the vehicle is acquired through purchase, by gift
42 or by any other manner whatsoever, except gifts between

43 husband and wife or between parents and children:
44 *Provided*, That the husband or wife, or the parents or
45 children previously have paid the tax on the vehicles
46 transferred to the state of West Virginia.

47 (3) The division of motor vehicles may issue a certificate
48 of registration and title to an applicant if the applicant
49 provides sufficient proof to the division of motor vehicles
50 that the applicant has paid the taxes and fees required by
51 this section to a motor vehicle dealership that has gone out
52 of business or has filed bankruptcy proceedings in the
53 United States bankruptcy court and the taxes and fees so
54 required to be paid by the applicant have not been sent to
55 the division by the motor vehicle dealership or have been
56 impounded due to the bankruptcy proceedings: *Provided*,
57 That the applicant makes an affidavit of the same and
58 assigns all rights to claims for money the applicant may
59 have against the motor vehicle dealership to the division
60 of motor vehicles.

61 (4) The division of motor vehicles shall issue a certificate
62 of registration and title to an applicant without payment
63 of the tax imposed by this section if the applicant is a
64 corporation, partnership or limited liability company
65 transferring the vehicle to another corporation, partner-
66 ship or limited liability company when the entities in-
67 volved in the transfer are members of the same controlled
68 group and the transferring entity has previously paid the
69 tax on the vehicle transferred. For the purposes of this
70 section, control means ownership, directly or indirectly, of
71 stock or equity interests possessing fifty percent or more
72 of the total combined voting power of all classes of the
73 stock of a corporation or equity interests of a partnership
74 or limited liability company entitled to vote or ownership,
75 directly or indirectly, of stock or equity interests possess-
76 ing fifty percent or more of the value of the corporation,
77 partnership or limited liability company.

78 (5) The tax imposed by this section does not apply to
79 vehicles to be registered as Class H vehicles or Class M
80 vehicles, as defined in section one, article ten of this
81 chapter, which are used or to be used in interstate com-
82 merce. Nor does the tax imposed by this section apply to

83 the titling of Class B vehicles registered at a gross weight
84 of fifty-five thousand pounds or more, or to the titling of
85 Class C semitrailers, full trailers, pole trailers and con-
86 verter gear: *Provided*, That if an owner of a vehicle has
87 previously titled the vehicle at a declared gross weight of
88 fifty-five thousand pounds or more and the title was issued
89 without the payment of the tax imposed by this section,
90 then before the owner may obtain registration for the
91 vehicle at a gross weight less than fifty-five thousand
92 pounds, the owner shall surrender to the commissioner the
93 exempted registration, the exempted certificate of title,
94 and pay the tax imposed by this section based upon the
95 current market value of the vehicle: *Provided, however*,
96 That notwithstanding the provisions of section nine,
97 article fifteen, chapter eleven of this code, the exemption
98 from tax under this section for Class B vehicles in excess
99 of fifty-five thousand pounds and Class C semitrailers, full
100 trailers, pole trailers and converter gear does not subject
101 the sale or purchase of the vehicles to the consumers sales
102 tax.

103 (6) The tax imposed by this section does not apply to
104 titling of vehicles leased by residents of West Virginia. A
105 tax is imposed upon the monthly payments for the lease of
106 any motor vehicle leased by a resident of West Virginia,
107 which tax is equal to five percent of the amount of the
108 monthly payment, applied to each payment, and continu-
109 ing for the entire term of the initial lease period. The tax
110 shall be remitted to the division of motor vehicles on a
111 monthly basis by the lessor of the vehicle.

112 (7) The tax imposed by this section does not apply to
113 titling of vehicles by a registered dealer of this state for
114 resale only, nor does the tax imposed by this section apply
115 to titling of vehicles by this state or any political subdivi-
116 sion thereof, or by any volunteer fire department or duly
117 chartered rescue or ambulance squad organized and
118 incorporated under the laws of the state of West Virginia
119 as a nonprofit corporation for protection of life or prop-
120 erty. The total amount of revenue collected by reason of
121 this tax shall be paid into the state road fund and ex-
122 pended by the commissioner of highways for matching
123 federal funds allocated for West Virginia. In addition to

124 the tax, there is a charge of five dollars for each original
125 certificate of title or duplicate certificate of title so issued:
126 *Provided*, That this state or any political subdivision of
127 this state, or any volunteer fire department, or duly
128 chartered rescue squad is exempt from payment of the
129 charge.

130 (8) The certificate is good for the life of the vehicle, so
131 long as the vehicle is owned or held by the original holder
132 of the certificate, and need not be renewed annually, or
133 any other time, except as provided in this section.

134 (9) If, by will or direct inheritance, a person becomes the
135 owner of a motor vehicle and the tax imposed by this
136 section previously has been paid, to the division of motor
137 vehicles, on that vehicle, he or she is not required to pay
138 the tax.

139 (10) A person who has paid the tax imposed by this
140 section is not required to pay the tax a second time for the
141 same motor vehicle, but is required to pay a charge of five
142 dollars for the certificate of retitle of that motor vehicle,
143 except that the tax shall be paid by the person when the
144 title to the vehicle has been transferred either in this or
145 another state from the person to another person and
146 transferred back to the person.

147 (11) The tax imposed by this section does not apply to
148 titling of vehicles rented daily or monthly by West Virginia
149 businesses. A tax is imposed upon the daily payments for
150 the rental of any motor vehicle rented in West Virginia,
151 which tax is twenty-five cents for each day of the period
152 of rental of the motor vehicle. The tax shall be remitted to
153 the division of motor vehicles on a monthly basis by the
154 lessor of the vehicle.

155 (c) Notwithstanding any provisions of this code to the
156 contrary, the owners of trailers, semitrailers, recreational
157 vehicles and other vehicles not subject to the certificate of
158 title tax prior to the enactment of this chapter are subject
159 to the privilege tax imposed by this section: *Provided*,
160 That the certification of title of any recreational vehicle
161 owned by the applicant on the thirtieth day of June, one
162 thousand nine hundred eighty-nine, is not subject to the

163 tax imposed by this section: *Provided, however,* That
164 mobile homes, manufactured homes, modular homes and
165 similar nonmotive propelled vehicles, except recreational
166 vehicles and house trailers, susceptible of being moved
167 upon the highways but primarily designed for habitation
168 and occupancy, rather than for transporting persons or
169 property, or any vehicle operated on a nonprofit basis and
170 used exclusively for the transportation of mentally re-
171 tarded or physically handicapped children when the
172 application for certificate of registration for the vehicle is
173 accompanied by an affidavit stating that the vehicle will
174 be operated on a nonprofit basis and used exclusively for
175 the transportation of mentally retarded and physically
176 handicapped children, are not subject to the tax imposed
177 by this section, but are taxable under the provisions of
178 articles fifteen and fifteen-a, chapter eleven of this code.

179 (d) Any person making any affidavit required under any
180 provision of this section, who knowingly swears falsely, or
181 any person who counsels, advises, aids or abets another in
182 the commission of false swearing is on the first offense
183 guilty of a misdemeanor and, upon conviction thereof,
184 shall be fined not more than five hundred dollars or be
185 confined in the county or regional jail for a period not to
186 exceed six months or, in the discretion of the court, both
187 fined and confined. For a second or any subsequent
188 conviction within five years, that person is guilty of a
189 felony and, upon conviction thereof, shall be fined not
190 more than five thousand dollars or be imprisoned in the
191 penitentiary for not less than one year nor more than five
192 years or, in the discretion of the court, fined and impris-
193 oned.


194 (e) Notwithstanding any other provisions of this section,
195 any person in the military stationed outside West Virginia,
196 or his or her dependents who possess a motor vehicle with
197 valid registration, are exempt from the provisions of this
198 article for a period of nine months from the date that the
199 person returns to this state or the date his or her depend-
200 ent returns to this state, whichever is later.

201 (f) No person may transfer, purchase or sell a fac-
202 tory-built home without a certificate of title issued by the

203 commissioner in accordance with the provisions of this
204 article:

205 (1) Any person who fails to provide a certificate of title
206 upon the transfer, purchase or sale of a factory-built home
207 is guilty of a misdemeanor and, upon conviction thereof,
208 shall for the first offense be fined not less than one hun-
209 dred dollars nor more than one thousand dollars, or be
210 confined in the county or regional jail for not more than
211 one year or, both fined and confined. For each subsequent
212 offense, the fine may be increased to not more than two
213 thousand dollars, with confinement in the county or
214 regional jail not more than one year or, both fined and
215 confined.

216 (2) Failure of the seller to transfer a certificate of title
217 upon sale or transfer of the factory-built home gives rise
218 to a cause of action, upon prosecution thereof, and allows
219 for the recovery of damages, costs and reasonable attorney
220 fees.



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

Paul Ashman

Chairman Senate Committee

Joe F. Smith

Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

Harold Edwards

Clerk of the Senate

Duane M. Day

Clerk of the House of Delegates

Carl Ray Tomblin

President of the Senate

[Signature]

Speaker House of Delegates

The within *approved* this the *25th*
Day of *March*, 1999

[Signature]

Governor

PRESENTED TO THE

GOVERNOR,

Date 3/23/99

Time 10:12 am