

SB 651

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000




ENROLLED

Committee Substitute for
SENATE BILL NO. 651

(By Senator Wootton, et al)



PASSED March 11, 2000

In Effect July 1, 2000 

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 651

(SENATORS WOOTON, BALL, DAWSON, HUNTER,
KESSLER, MCCABE, MITCHELL, OLIVERIO, REDD,
ROSS, SNYDER AND DEEM, *original sponsors*)

[Passed March 11, 2000; to take effect July 1, 2000.]

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; to amend and reenact section twenty-five-a, article six of said chapter; and to further amend said chapter by adding thereto a new article, designated article six-d, all relating to tax on motor vehicle rentals; authorizing commissioner of motor vehicles to establish by rule a rate for motor vehicle daily rental tax; authorizing emergency rule; providing for civil penalties; requiring license certificate for businesses engaged in daily passenger car rental; providing for collection of daily passenger car rental tax; requiring filing of certain forms;

authorizing denial, suspension or revocation of license for failure to pay tax; establishing liability of officers of corporation; requiring annual returns; requiring applicants to be bonded; establishing fee for licensure; authorizing investigation of applicants; providing for confidentiality of applicant information; establishing criteria for refusal to issue license; requiring licenses to be renewed annually; requiring license to be displayed; authorizing duplicate license; requiring licensee to notify commissioner of certain changes in the business; providing for issuance of new license upon certain changes in business; authorizing investigation of licensees; providing grounds for denial, suspension or revocation of license; relinquishing license; providing for appeals of commissioner's decision; providing for inspection by commissioner and agents; establishing misdemeanor violations and penalties for violations; providing for injunctive relief; and authorizing promulgation of rules.

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; that section twenty-five-a, article six of said chapter be amended and reenacted; and that said chapter be further amended by adding thereto a new article, designated article six-d, all 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; exceptions; fee on payments for leased vehicles; 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 or agent charged
- 5 with the duty, unless the applicant therefor already has

6 received, or at the same time makes application for and is
7 granted, an official certificate of title of the vehicle in
8 either an electronic or paper format. The application shall
9 be upon a blank form to be furnished by the division of
10 motor vehicles and shall contain a full description of the
11 vehicle, which description shall contain a manufacturer's
12 serial or identification number or other number as deter-
13 mined by the commissioner and any distinguishing marks,
14 together with a statement of the applicant's title and of
15 any liens or encumbrances upon the vehicle, the names and
16 addresses of the holders of the liens and any other infor-
17 mation as the division of motor vehicles may require. The
18 application shall be signed and sworn to by the applicant.
19 A duly certified copy of the division's electronic record of
20 a certificate of title shall be admissible in any civil,
21 criminal or administrative proceeding in this state as
22 evidence of ownership.

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

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

40 value of the vehicle at the time of the gift or transfer is the
41 value of the vehicle for the purposes of this section.

42 (2) No certificate of title for any vehicle may be issued to
43 any applicant unless the applicant has paid to the division
44 of motor vehicles the tax imposed by this section which is
45 five percent of the true and actual value of the vehicle
46 whether the vehicle is acquired through purchase, by gift
47 or by any other manner whatsoever, except gifts between
48 husband and wife or between parents and children:
49 *Provided*, That the husband or wife, or the parents or
50 children, previously have paid the tax on the vehicles
51 transferred to the state of West Virginia.

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

66 (4) The division of motor vehicles shall issue a certificate
67 of registration and title to an applicant without payment
68 of the tax imposed by this section if the applicant is a
69 corporation, partnership or limited liability company
70 transferring the vehicle to another corporation, partner-
71 ship or limited liability company when the entities in-
72 volved in the transfer are members of the same controlled
73 group and the transferring entity has previously paid the
74 tax on the vehicle transferred. For the purposes of this

75 section, control means ownership, directly or indirectly, of
76 stock or equity interests possessing fifty percent or more
77 of the total combined voting power of all classes of the
78 stock of a corporation or equity interests of a partnership
79 or limited liability company entitled to vote or ownership,
80 directly or indirectly, of stock or equity interests possess-
81 ing fifty percent or more of the value of the corporation,
82 partnership or limited liability company.

83 (5) The tax imposed by this section does not apply to
84 vehicles to be registered as Class H vehicles or Class M
85 vehicles, as defined in section one, article ten of this
86 chapter, which are used or to be used in interstate com-
87 merce. Nor does the tax imposed by this section apply to
88 the titling of Class B vehicles registered at a gross weight
89 of fifty-five thousand pounds or more, or to the titling of
90 Class C semitrailers, full trailers, pole trailers and con-
91 verter gear: *Provided*, That if an owner of a vehicle has
92 previously titled the vehicle at a declared gross weight of
93 fifty-five thousand pounds or more and the title was issued
94 without the payment of the tax imposed by this section,
95 then before the owner may obtain registration for the
96 vehicle at a gross weight less than fifty-five thousand
97 pounds, the owner shall surrender to the commissioner the
98 exempted registration, the exempted certificate of title
99 and pay the tax imposed by this section based upon the
100 current market value of the vehicle: *Provided, however*,
101 That notwithstanding the provisions of section nine,
102 article fifteen, chapter eleven of this code, the exemption
103 from tax under this section for Class B vehicles in excess
104 of fifty-five thousand pounds and Class C semitrailers, full
105 trailers, pole trailers and converter gear does not subject
106 the sale or purchase of the vehicles to the consumers sales
107 tax.

108 (6) The tax imposed by this section does not apply to
109 titling of vehicles leased by residents of West Virginia. A

110 tax is imposed upon the monthly payments for the lease of
111 any motor vehicle leased by a resident of West Virginia,
112 which tax is equal to five percent of the amount of the
113 monthly payment, applied to each payment, and continu-
114 ing for the entire term of the initial lease period. The tax
115 shall be remitted to the division of motor vehicles on a
116 monthly basis by the lessor of the vehicle.

117 (7) The tax imposed by this section does not apply to
118 titling of vehicles by a registered dealer of this state for
119 resale only, nor does the tax imposed by this section apply
120 to titling of vehicles by this state or any political subdivi-
121 sion thereof, or by any volunteer fire department or duly
122 chartered rescue or ambulance squad organized and
123 incorporated under the laws of the state of West Virginia
124 as a nonprofit corporation for protection of life or prop-
125 erty. The total amount of revenue collected by reason of
126 this tax shall be paid into the state road fund and ex-
127 pended by the commissioner of highways for matching
128 federal funds allocated for West Virginia. In addition to
129 the tax, there is a charge of five dollars for each original
130 certificate of title or duplicate certificate of title so issued:
131 *Provided*, That this state or any political subdivision of
132 this state, or any volunteer fire department or duly char-
133 tered rescue squad is exempt from payment of the charge.

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

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

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

151 (11) The tax imposed by this section does not apply to
152 any passenger vehicle offered for rent in the normal course
153 of business by a daily passenger rental car business as
154 licensed under the provisions of article six-d of this
155 chapter. For purposes of this section, a daily passenger car
156 means a Class A motor vehicle having a gross weight of
157 eight thousand pounds or less and is registered in this state
158 or any other state. In lieu of the tax imposed by this
159 section, there is hereby imposed a tax of not less than one
160 dollar nor more than one dollar and fifty cents for each
161 day or part of the rental period. The commissioner shall
162 propose an emergency rule in accordance with the provi-
163 sions of article three, chapter twenty-nine-a of this code to
164 establish this tax.

165 (c) Notwithstanding any provisions of this code to the
166 contrary, the owners of trailers, semitrailers, recreational
167 vehicles and other vehicles not subject to the certificate of
168 title tax prior to the enactment of this chapter are subject
169 to the privilege tax imposed by this section: *Provided,*
170 That the certification of title of any recreational vehicle
171 owned by the applicant on the thirtieth day of June, one
172 thousand nine hundred eighty-nine, is not subject to the
173 tax imposed by this section: *Provided, however,* That
174 mobile homes, manufactured homes, modular homes and
175 similar nonmotive propelled vehicles, except recreational
176 vehicles and house trailers, susceptible of being moved
177 upon the highways but primarily designed for habitation

178 and occupancy, rather than for transporting persons or
179 property, or any vehicle operated on a nonprofit basis and
180 used exclusively for the transportation of mentally re-
181 tarded or physically handicapped children when the
182 application for certificate of registration for the vehicle is
183 accompanied by an affidavit stating that the vehicle will
184 be operated on a nonprofit basis and used exclusively for
185 the transportation of mentally retarded and physically
186 handicapped children, are not subject to the tax imposed
187 by this section, but are taxable under the provisions of
188 articles fifteen and fifteen-a, chapter eleven of this code.

189 (d) Any person making any affidavit required under any
190 provision of this section, who knowingly swears falsely, or
191 any person who counsels, advises, aids or abets another in
192 the commission of false swearing, or any person, while
193 acting as an agent of the division of motor vehicles, issues
194 a vehicle registration without first collecting the fees and
195 taxes or fails to perform any other duty required by this
196 chapter to be performed before a vehicle registration is
197 issued is on the first offense guilty of a misdemeanor and,
198 upon conviction thereof, shall be fined not more than five
199 hundred dollars or be confined in the county or regional
200 jail for a period not to exceed six months or, in the discre-
201 tion of the court, both fined and confined. For a second or
202 any subsequent conviction within five years, that person
203 is guilty of a felony and, upon conviction thereof, shall be
204 fined not more than five thousand dollars or be imprisoned
205 in the penitentiary for not less than one year nor more
206 than five years or, in the discretion of the court, both fined
207 and imprisoned.

208 (e) Notwithstanding any other provisions of this section,
209 any person in the military stationed outside West Virginia,
210 or his or her dependents who possess a motor vehicle with
211 valid registration, are exempt from the provisions of this
212 article for a period of nine months from the date the

213 person returns to this state or the date his or her depend-
214 ent returns to this state, whichever is later.

215 (f) No person may transfer, purchase or sell a fac-
216 tory-built home without a certificate of title issued by the
217 commissioner in accordance with the provisions of this
218 article:

219 (1) Any person who fails to provide a certificate of title
220 upon the transfer, purchase or sale of a factory-built home
221 is guilty of a misdemeanor and, upon conviction thereof,
222 shall for the first offense be fined not less than one hun-
223 dred dollars nor more than one thousand dollars, or be
224 confined in the county or regional jail for not more than
225 one year or, both fined and confined. For each subsequent
226 offense, the fine may be increased to not more than two
227 thousand dollars, with confinement in the county or
228 regional jail not more than one year or, both fined and
229 confined.

230 (2) Failure of the seller to transfer a certificate of title
231 upon sale or transfer of the factory-built home gives rise
232 to a cause of action, upon prosecution thereof, and allows
233 for the recovery of damages, costs and reasonable attorney
234 fees.

235 (g) Notwithstanding any other provision to the contrary,
236 whenever reference is made to the application for or
237 issuance of any title or the recordation or release of any
238 lien, it shall be understood to include the application,
239 transmission, recordation, transfer of ownership and
240 storage of information in an electronic format.

ARTICLE 6. LICENSING OF DEALERS AND WRECKERS, ETC.

§17A-6-25a. Civil penalties.

1 (a) In addition to any other remedy or penalty provided
2 by law, the commissioner may levy and collect a civil fine,
3 in an amount not to exceed one thousand dollars for each

4 first violation, against any person who violates the provi-
5 sions of this article, article six-b, article six-c or article
6 six-d of this chapter, any of the rules or policies imple-
7 mented to enforce those articles, or any lawful order of the
8 commissioner pursuant to authority set forth in those
9 articles. Every transaction which violates this article,
10 article six-b, article six-c or article six-d of this chapter
11 shall be considered a separate violation. For a second
12 violation, being any violation occurring within three years
13 following any previous violation for which the violator has
14 been disciplined pursuant to section eighteen, article six of
15 this chapter, the commissioner may levy and collect a fine
16 in an amount not to exceed twenty-five hundred dollars
17 and for a third and subsequent violation occurring within
18 the three-year period following the first violation, the
19 commissioner may levy and collect a fine in an amount not
20 to exceed five thousand dollars.

21 (b) A fine assessed under this section shall not take effect
22 until the commissioner sends to the person against whom
23 the penalty is assessed by certified mail, return receipt
24 requested, a notice of violation finding that the person has
25 committed an offense. The notice shall contain:

26 (1) A statement of the offense the person committed;

27 (2) A summary of the facts on which the finding of a
28 violation was made;

29 (3) The amount of the fine which is being levied; and

30 (4) An order that the person:

31 (A) Cease and desist from all future violations and pay
32 the fine; or

33 (B) Protest in writing the findings of the commissioner or
34 the amount of the assessed fine and request a hearing.

35 Any request for a hearing must be received by the
36 commissioner within thirty days after the mailing date of
37 the notice of violation. The notice of violation may be sent
38 to any address which the person has used on any title or
39 license application, or other filing or record which the
40 commissioner believes is current. Failure of any person to
41 receive a notice of violation does not preclude the fine
42 from taking effect. However, the commissioner shall
43 accept as timely a request for hearing from any person
44 who, within one year of the date the notice of violation
45 was sent, provides satisfactory proof that he or she did not
46 receive the notice of violation and that good cause exists
47 to excuse his or her failure to receive the notice of viola-
48 tion and that he or she wishes in good faith to assert a
49 protest to the notice of violation. The pendency of the one-
50 year period shall not keep any penalty from taking effect,
51 but the commissioner shall stay enforcement of the fine
52 upon his or her acceptance of any notice filed after the
53 thirty-day period pending the outcome of the appeal.

54 (c) Upon receipt of a timely request, the commissioner
55 shall afford the person a hearing in accordance with the
56 rules of the division of motor vehicles. The commissioner,
57 in addition to considering the evidence relied upon to
58 prove or defend against a finding of a violation, shall also
59 evaluate the appropriateness of the amount of the civil
60 penalty. In making such evaluation, the commissioner
61 shall consider:

62 (1) The severity of the violation and its impact on the
63 public;

64 (2) The number of similar or related violations;

65 (3) Whether the violations were willful or intentional;
66 and

67 (4) Any other facts considered appropriate.

68 (d) In addition to any other findings of fact or conclu-
69 sions of law, the commissioner may reduce the civil
70 penalty to a stated amount. The appellant may, at any
71 time during the pendency of the appeal, enter into a
72 settlement agreement with the commissioner. The settle-
73 ment agreement may provide for a reduction in the penalty
74 and may provide that the appellant does not admit a
75 violation. The entry into a settlement agreement or the
76 payment of any fine pursuant to a settlement agreement
77 which states that the appellant does not admit a violation
78 shall not amount to an admission of guilt for purposes of
79 any criminal prosecution.

80 (e) Upon the expiration of all periods for protest or
81 appeal of a notice of violation, including judicial review
82 pursuant to section four, article five, chapter twenty-nine-
83 a of this code, the notice of violation shall have the same
84 force and effect and be enforceable as a judgment entered
85 by any court of law of this state.

86 (f) If a corporation is found to have committed a viola-
87 tion against which a penalty may be assessed under this
88 section, any officer of the corporation who is found to have
89 knowingly and intentionally committed the violation, to
90 have knowingly and intentionally directed another to
91 commit the violation or to have knowingly and intention-
92 ally failed to take reasonable steps to prevent another
93 from committing the violation, may be individually found
94 to be in violation and assessed a civil penalty as provided
95 by this section.

ARTICLE 6D. DAILY PASSENGER RENTAL CAR BUSINESS.

§17A-6D-1. License certificate required; application.

1 No person may engage in a daily passenger rental car
2 business in West Virginia without a license certificate.

3 Application for a daily passenger rental car license
4 certificate shall be made on a form prescribed by the
5 commissioner and shall disclose any information required
6 by the commissioner. The application shall be verified by
7 an oath or affirmation of the applicant, if an individual, or
8 if the applicant is a corporation, partnership or limited
9 liability company by a partner or officer thereof.

§17A-6D-2. Collection of daily passenger car rental tax imposed.

1 The tax authorized by section four, article three of this
2 chapter and established by rules promulgated in accordance
3 with the provisions of article three, chapter twenty-
4 nine-a of this code shall be collected by each rental car
5 business. The daily passenger car business shall collect the
6 tax on each vehicle rented regardless of where the vehicle
7 is titled or registered and shall remit all taxes collected to
8 the division of motor vehicles on a monthly basis. All
9 taxes collected pursuant to this section shall be deposited
10 in the state road fund and subject to appropriation by the
11 legislature. The daily passenger car business shall complete
12 the returns required by the commissioner of motor
13 vehicles and submit them monthly with the remittance. In
14 addition, an annual return which summarizes the monthly
15 returns is required. The monthly returns are due no later
16 than the fifteenth day following the last day of the month
17 for which the return applies, and the annual return shall
18 be due no later than the thirtieth day following the close
19 of the year to which it applies. The commissioner of motor
20 vehicles shall promulgate an emergency rule pursuant to
21 the provisions of chapter twenty-nine-a of this code
22 setting forth pertinent information regarding the collection
23 of the tax imposed under this section, the definition of
24 a daily passenger car rental business, and specifying
25 forms. Nonpayment of the tax shall constitute grounds for
26 the commissioner of motor vehicles to deny, suspend or

27 revoke the license certificate set forth in this article. The
28 emergency rule shall be filed on or before the first day of
29 June, two thousand.

§17A-6D-3. Liability of officers of corporation, etc.

1 If the taxpayer is an association, partnership or corpora-
2 tion, the officers thereof shall be personally liable, jointly
3 and severally, for any default on the part of the associa-
4 tion, partnership or corporation, and payment of the tax
5 and any additions to the tax, penalties and interest on the
6 tax imposed by this article may be enforced against the
7 officers as against the association, partnership or corpora-
8 tion which they represent. Any failure to collect the tax
9 imposed in this article and/or any failure to timely remit
10 to the commissioner of motor vehicles the tax imposed by
11 this article constitutes a default for purposes of this
12 section. Any other failure to comply with the provisions of
13 this article constitutes a default for purposes of this
14 section.

§17A-6D-4. Annual return; extension of time.

1 (a) *Date due.* – On or before thirty days after the end of
2 the tax year, each person liable for the payment of any tax
3 due under this article shall make and file an annual return
4 in such form as may be required by the commissioner of
5 motor vehicles, showing:

6 (1) Total gross proceeds of his or her daily passenger car
7 rental business for preceding tax year;

8 (2) Gross proceeds upon which the tax for that year was
9 computed; and

10 (3) Any other information necessary in the computation
11 or collection of the tax that the commissioner of motor
12 vehicles may require.

13 (b) *Payment.* – After deducting the amount of prior
14 payments during the tax year, the taxpayer shall forward
15 the annual return along with payment of any remaining
16 tax, due for the preceding tax year, to the commissioner of
17 motor vehicles. The taxpayer or his duly authorized agent
18 shall verify the return under oath.

19 (c) *Extension of time.* – The commissioner of motor
20 vehicles for good cause shown, may, on written application
21 of a taxpayer, extend the time for making any return
22 required by the provisions of this article.

§17A-6D-5. Applicant must be bonded.

1 An application for a license certificate must be accompa-
2 nied by a bond in the penal sum of twenty-five thousand
3 dollars and have a corporate surety authorized to do
4 business in this state, to ensure that the applicant will not,
5 in the conduct of his or her business, make any fraudulent
6 representation which causes a financial loss to any pur-
7 chaser, seller, financial institution, agency or the state of
8 West Virginia. The bond shall be effective on the date the
9 license certificate is issued.

10 A licensee shall keep the bond in full force and effect at
11 all times. The surety on the bond may cancel the bond
12 upon giving thirty days' notice to the commissioner and,
13 after notice of cancellation, the surety is relieved of
14 liability for any breach or condition occurring after the
15 effective date of the cancellation.

§17A-6D-6. Fee required for license certificate.

1 The initial application fee for a certificate to engage in
2 a daily passenger rental car business is two hundred and
3 fifty dollars. The annual renewal fee for the certificate is
4 one hundred dollars.

§17A-6D-7. Investigation prior to issuance of license certificate; information confidential.

1 Upon receipt of a completed application, the required
2 bond and the application fee, the commissioner may
3 conduct an investigation if necessary to determine the
4 accuracy of any statements contained in the application
5 and the existence of any other facts relevant in considering
6 the application. To facilitate the investigation, the
7 commissioner may withhold issuance or refusal of the
8 license certificate for a period not to exceed thirty days.

9 Any application for a license certificate under the
10 provisions of this article and any information submitted
11 regarding the application shall be confidential for use of
12 the division. No person may divulge any information
13 contained in any application or any information submitted
14 regarding the application, except in response to a valid
15 subpoena or subpoena duces tecum issued pursuant to law.

§17A-6D-8. Refusal of license certificate.

1 If the commissioner finds that the applicant:

2 (1) Has failed to furnish the required bond;

3 (2) Has knowingly made a false statement of a material
4 fact in the application;

5 (3) Has habitually defaulted on financial obligations;

6 (4) Has been convicted of a felony within five years
7 immediately preceding receipt of the application by the
8 commissioner;

9 (5) Has not complied with the registration and title laws
10 of this state;

11 (6) Has been guilty of any fraudulent act in connection
12 with the business of a daily passenger rental car business;

13 (7) Has done any act or has failed or refused to perform
14 any duty for which the license certificate sought could be
15 suspended or revoked were it then issued and outstanding;

16 (8) Has not attained the age of eighteen years;

17 (9) Has been delinquent in the payment of any taxes
18 owed to a political subdivision of or to the state of West
19 Virginia;

20 (10) Has been denied a license in another state or has
21 been the subject of license revocation or suspension in
22 another state;

23 (11) Has committed any action in another state which, if
24 it had been committed in this state, would be grounds for
25 denial and refusal of the application for a license certifi-
26 cate.

27 Then, upon the basis of the application, such finding and
28 all other information, the commissioner shall make and
29 enter an order denying the application for a license
30 certificate. The denial is final and conclusive subject to
31 appeal. If there is no basis to deny the application, the
32 commissioner shall issue to the applicant the license
33 certificate which shall entitle the licensee to engage in a
34 daily passenger rental car business.

**§17A-6D-9. When application to be made; expiration of license
certificate; renewal.**

1 (a) The initial application for a license certificate to
2 engage in a daily passenger rental car business shall be
3 made at least thirty days prior to the first day of January,
4 two thousand one. This license shall be valid for one year.

5 (b) Any initial application made after the first day of
6 January, two thousand one, and any year thereafter, shall
7 expire on the thirty-first day of December of that year.

8 (c) A license certificate may be renewed by paying the
9 renewal fee and review by the commissioner. Any applica-
10 tion for renewal must be received by the commissioner at
11 least thirty days prior to its expiration.

12 (d) A license certificate issued in accordance with the
13 provisions of this article shall not be transferable.

**§17A-6D-10. Form and display of license certificate; certified
copies of license.**

1 (a) The commissioner shall prescribe the form of the
2 license certificate for a daily passenger rental car business.
3 Each license certificate shall have printed on the certifi-
4 cate the seal of the division, the location of each place of
5 business of the licensee, the year for which the license is
6 issued, the license certificate number and any other
7 information the commissioner may prescribe. The license
8 certificate shall be delivered or mailed to the licensee.

9 (b) When a licensee conducts his or her licensed business
10 at more than one location, he or she shall apply to the
11 commission for a certified copy of the license certificate
12 for each place of business. A fee of one dollar shall be paid
13 for each certified copy of the license certificate. The
14 license certificate is to be conspicuously posted at each
15 place of business.

16 (c) In the event of the loss or destruction of a license
17 certificate or a certified copy of the license certificate, the
18 licensee shall immediately make application for a certified
19 copy of the license certificate. A fee of one dollar shall be
20 required for a certified copy.

§17A-6D-11. Changes in business; action required.

1 Every daily passenger rental car business shall notify the
2 commissioner within sixty days from the date on which
3 any of the following changes in the business occur:

- 4 (1) A change of the location of any place of business;
- 5 (2) A change of the name or trade name under which the
6 licensee engages or will engage in the business;
- 7 (3) The death of the licensee or any partner or partners
8 of the licensee;
- 9 (4) A change in any partners, officers or directors;
- 10 (5) A change in ownership of the business;
- 11 (6) A change in the type of legal entity by and through
12 which the licensee engages or will engage in the business;
13 or
- 14 (7) The appointment of any trustee in bankruptcy,
15 trustee under an assignment for the benefit of creditors,
16 master or receiver.

17 When any change specified in subdivision (1), (2), (3), (4),
18 (5) or (6) occurs, an application for a new license certifi-
19 cate shall immediately be filed with the commissioner:
20 *Provided*, That when a change is made involving subdivi-
21 sion (3) of this section, an application for a new license
22 certificate need not be filed during the balance of the
23 license year if a member of the family of the deceased
24 person succeeds to the interest in the business. Upon
25 receipt and review of the application, a new license
26 certificate shall be issued incorporating the changes. No
27 additional fee for the balance of the license year is re-
28 quired for the issuance of any new license certificate
29 issued as a result of any change specified in this section.

30 No new license certificate is required for any trustee in
31 bankruptcy, trustee under an assignment for the benefit of
32 creditors, receiver or master, appointed pursuant to law,
33 who shall take charge of or operate such business for the
34 purpose of winding up the affairs of the business or
35 protecting the interests of the creditors of the business.

§17A-6D-12. Investigation; grounds for suspending or revoking a license certificate; notice of refusal, suspension or revocation of license certificate; relinquishing license certificate.

1 The commissioner may conduct an investigation to
2 determine whether any provisions of this chapter have
3 been violated by a licensee. Any investigation shall be
4 kept in strictest confidence by the commissioner, the
5 division, the licensee, any complainant and all other
6 persons, unless and until the commissioner suspends or
7 revokes the license certificate of the license involved.

8 (a) The commissioner may suspend or revoke a license
9 certificate if the commissioner finds that the licensee:

10 (1) Has failed or refused to comply with the laws of this
11 state relating to the registration and titling of vehicles and
12 the giving of notices of transfers;

13 (2) Has failed or refused to comply with the provisions
14 and requirements of this article and the promulgated rules
15 authorized in section nine, article two of this chapter
16 which were implemented by the commissioner, in accor-
17 dance with the provisions of article three, chapter twenty-
18 nine-a of this code, to enforce the provisions of this article;
19 or

20 (b) The commissioner shall suspend or revoke a license
21 certificate if the commissioner finds that the licensee:

22 (1) Has knowingly made a false statement of a material
23 fact in his or her application for the license certificate then
24 issued and outstanding;

25 (2) Has habitually defaulted on financial obligations;

26 (3) Has been guilty of any fraudulent act in connection
27 with the license service business;

28 (4) Has defrauded or is attempting to defraud the state
29 or any political subdivision of the state of any taxes or fees
30 in connection with the sale or transfer of any vehicle;

31 (5) Has committed fraud in the registration of a vehicle;

32 (6) Has knowingly purchased, sold or otherwise dealt in
33 a stolen vehicle or vehicles;

34 (7) Has advertised by any means, with intent to de-
35 fraud, any material representation or statement of fact
36 which is untrue, misleading or deceptive in any particular,
37 relating to the conduct of the licensed business;

38 (8) Has a license certificate to which he is not lawfully
39 entitled; or

40 (9) The existence of any other ground upon which the
41 license certificate could have been refused, or any ground
42 upon which would be cause for refusing a license certifi-
43 cate to the licensee were he then applying for the same.

44 (c) Whenever a licensee fails or refuses to keep the bond
45 required by section two of this article in full force and
46 effect, the license certificate of the licensee shall automati-
47 cally be suspended unless and until the required bond is
48 furnished to the commissioner, in which event the suspen-
49 sion shall be vacated.

50 (d) Whenever the commissioner refuses to issue a license
51 certificate, or revokes a license certificate, he or she shall
52 make and enter an order to that effect and shall cause a
53 copy of the order to be served in person or by certified
54 mail, return receipt requested, on the applicant or licensee.

55 (e) Suspensions under this section shall continue until
56 the cause of the suspension has been eliminated or cor-
57 rected. Whenever a license certificate is suspended or
58 revoked, the commissioner shall, in the order of suspension
59 or revocation, direct the licensee to return to the division

60 his or her license certificate and any other documents
61 specified. It is the duty of the licensee to comply with the
62 order. Whenever a licensee fails or refuses to comply with
63 any order of the commissioner, the commissioner shall
64 proceed as provided in section seven, article nine of this
65 chapter.

66 (f) Any applicant whose request for a license certificate
67 is refused and any licensee whose license is suspended or
68 revoked may appeal that action in accordance with
69 procedures established by the commissioner. The revoca-
70 tion or suspension of a license certificate does not preclude
71 a person from submitting an application for a new license
72 certificate, to be processed in the same manner. The
73 license certificate shall be issued or refused on the same
74 grounds as any other application for a license certificate,
75 except that any previous suspension and revocation may
76 be considered in deciding whether to issue or refuse the
77 license certificate.

§17A-6D-13. Inspections; violations and penalties.

1 (a) The commissioner and his agents, acting at the
2 commissioner's request, are hereby authorized to inspect
3 the place of business and pertinent records, documents and
4 papers of any person required to be licensed under the
5 provisions of this article to the extent deemed reasonably
6 necessary to determine compliance with and violations of
7 this article. For the purpose of making an inspection, the
8 commissioner and his agents are authorized, at reasonable
9 times, to enter in and upon the place of business suspected
10 of being in violation of this article.

11 (b) Any person who violates any provision of this article
12 or any final order of the commissioner or board issued
13 pursuant to this article, shall be guilty of a misdemeanor
14 and the provisions of article eleven of this chapter govern-

15 ing violations of this chapter shall be fully applicable to
16 the violation.

§17A-6D-14. Injunctive relief.

1 (a) Whenever it appears to the commissioner that any
2 person or licensee has violated any provision of this article
3 or any final order of the commissioner, the commissioner
4 may petition, in the name of the state, the circuit court of
5 the county in which the violation or violations occurred,
6 for an injunction against the person or licensee. A viola-
7 tion or violations resulting in prosecution or conviction
8 under the provisions of article eleven of this chapter shall
9 not prohibit injunctive relief.

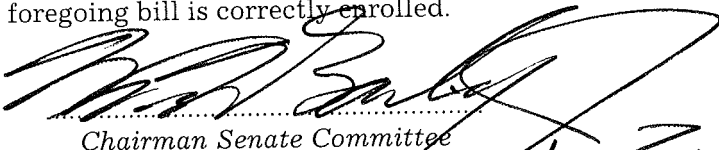
10 The circuit court may, by mandatory or prohibitory
11 injunction, compel compliance with the provisions of this
12 article and all final orders of the commissioner. The court
13 may also issue temporary injunctions.

14 (b) The judgement by the circuit court shall be final
15 unless reversed, vacated or modified on appeal to the
16 supreme court of appeals. Any such appeal shall be sought
17 in the manner and within the time provided by law for
18 appeals from circuit courts in other civil cases.

§17A-6D-15. Promulgation of rules.

1 The commissioner may promulgate rules in accordance
2 with article three, chapter twenty-nine-a of this code in
3 order to effect the provisions of this article.

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



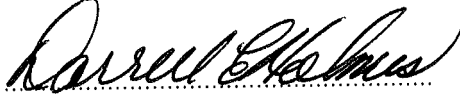
Chairman Senate Committee



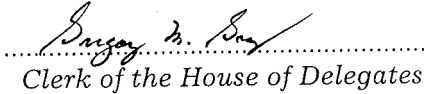
Chairman House Committee

Originated in the Senate.

Takes effect July 1, 2000.



Clerk of the Senate



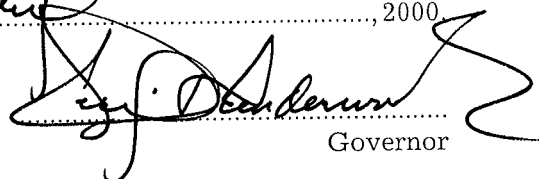
Clerk of the House of Delegates



President of the Senate



Speaker House of Delegates

The within approved this the 5th
Day of April, 2000.

Governor

PRESENTED TO THE

GOVERNOR

Date 3/31/00

Time 4:15pm