

1 ENGROSSED

2 **SENATE BILL NO. 608**

3 (By Senators Beach, Klempa, Plymale, Tucker and Williams)

4
5 [Originating in the Committee on Transportation and
6 Infrastructure; reported February 23, 2011.]
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9 A BILL to amend and reenact §17A-2-13 of the Code of West Virginia,
10 1931, as amended; to amend and reenact §17A-3-4 of said code;
11 to amend and reenact §17A-4-1 and §17A-4-10 of said code; to
12 amend and reenact §17A-4A-10 of said code; to amend and
13 reenact §17A-10-3, §17A-10-10 and §17A-10-11 of said code; to
14 amend and reenact §17B-2-1, §17B-2-3a, §17B-2-5, §17B-2-6,
15 §17B-2-8 and §17B-2-11 of said code; and to amend and reenact
16 §17D-2-2 of said code, all relating to increasing Division of
17 Motor Vehicles fees, veteran designation on licenses,
18 notification to division of scrapped, compressed, dismantled
19 or destroyed vehicles and vehicle brands; increasing the fee
20 for vehicle records and the certified record fee; increasing
21 the registration fee for Class A motor vehicles and creating
22 two weight classes within Class A; increasing the fee for the
23 issuance and duplication of various documents by the division
24 including titles, registrations, plates and decals; increasing
25 the fee for recording liens and releases; increasing the

1 vehicle transfer fees; increasing the fee for issuance,
2 duplication and renewal of a driver's license, identification
3 card and motorcycle license; requiring the payment of the fee
4 for each attempt at the written and road skills test;
5 increasing the fee for driving records; providing that
6 licenses issued by the division may contain information
7 designating the licensee as a person who is an honorably
8 discharged veteran of any branch of the armed forces of the
9 United States in accordance with criteria established by the
10 division if the licensee requests this information on the
11 license; providing an additional means to notify the division
12 regarding vehicles scrapped, compressed, dismantled or
13 destroyed and prescribing form; and providing for the use of
14 additional vehicle brands used by other jurisdictions that are
15 consistent with the National Motor Vehicle Title Information
16 System.

17 *Be it enacted by the Legislature of West Virginia:*

18 That §17A-2-13 of the Code of West Virginia, 1931, as amended,
19 be amended and reenacted; that §17A-3-4 of said code be amended and
20 reenacted; that §17A-4-1 and §17A-4-10 of said code be amended and
21 reenacted; that §17A-4A-10 of said code be amended and reenacted;
22 that §17A-10-3, §17A-10-10 and §17A-10-11 of said code be amended
23 and reenacted; that §17B-2-1, §17B-2-3a, §17B-2-5, §17B-2-6, §17B-
24 2-8 and §17B-2-11 of said code be amended and reenacted; and that
25 §17D-2-2 of said code be amended and reenacted, all to read as
26 follows:

1 **CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION,**
2 **CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.**

3 **ARTICLE 2. DIVISION OF MOTOR VEHICLES.**

4 **§17A-2-13. Authority to administer oaths and certify copies of**
5 **records; information as to registration.**

6 (a) Officers and employees of the division designated by the
7 commissioner are, for the purpose of administering the motor
8 vehicle laws, authorized to administer oaths and acknowledge
9 signatures, and shall do so without fee.

10 (b) The commissioner and such officers of the division as he
11 or she may designate are hereby authorized to prepare under the
12 seal of the division and deliver upon request in conformance with
13 article two-a of this chapter a certified copy of any record of the
14 division, charging ~~a~~ an additional fee of ~~one-dollar~~ \$3 for each
15 document so authenticated, and every such certified copy is
16 admissible in any proceeding in any court in like manner as the
17 original thereof.

18 (c) Subject to the provisions of article two-a of this
19 chapter, the commissioner and such officers of the division as he
20 or she may designate may furnish the requested information to any
21 person making a written request for information regarding the
22 registration of any vehicle at a fee of ~~one-dollar~~ \$7 for each
23 registration about which information is furnished.

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

1 **§17A-3-4. Application for certificate of title; fees; abolishing**
2 **privilege tax; prohibition of issuance of certificate of title**
3 **without compliance with consumer sales and service tax**
4 **provisions; exceptions.**

5 (a) Certificates of registration of any vehicle or
6 registration plates for the vehicle, whether original issues or
7 duplicates, may not be issued or furnished by the Division of Motor
8 Vehicles or any other officer or agent charged with the duty,
9 unless the applicant already has received, or at the same time
10 makes application for and is granted, an official certificate of
11 title of the vehicle in either an electronic or paper format. The
12 application shall be upon a blank form to be furnished by the
13 Division of Motor Vehicles and shall contain a full description of
14 the vehicle, which description shall contain a manufacturer's
15 serial or identification number or other number as determined by
16 the commissioner and any distinguishing marks, together with a
17 statement of the applicant's title and of any liens or encumbrances
18 upon the vehicle, the names and addresses of the holders of the
19 liens and any other information as the Division of Motor Vehicles
20 may require. The application shall be signed and sworn to by the
21 applicant. A duly certified copy of the division's electronic
22 record of a certificate of title is admissible in any civil,
23 criminal or administrative proceeding in this state as evidence of
24 ownership.

25 (b) A tax is imposed upon the privilege of effecting the

1 certification of title of each vehicle in the amount equal to five
2 percent of the value of the motor vehicle at the time of the
3 certification, to be assessed as follows:

4 (1) If the vehicle is new, the actual purchase price or
5 consideration to the purchaser of the vehicle is the value of the
6 vehicle. If the vehicle is a used or secondhand vehicle, the
7 present market value at time of transfer or purchase is the value
8 of the vehicle for the purposes of this section: Provided, That so
9 much of the purchase price or consideration as is represented by
10 the exchange of other vehicles on which the tax imposed by this
11 section has been paid by the purchaser shall be deducted from the
12 total actual price or consideration paid for the vehicle, whether
13 the vehicle be new or secondhand. If the vehicle is acquired
14 through gift or by any manner whatsoever, unless specifically
15 exempted in this section, the present market value of the vehicle
16 at the time of the gift or transfer is the value of the vehicle for
17 the purposes of this section.

18 (2) No certificate of title for any vehicle may be issued to
19 any applicant unless the applicant has paid to the Division of
20 Motor Vehicles the tax imposed by this section which is five
21 percent of the true and actual value of the vehicle whether the
22 vehicle is acquired through purchase, by gift or by any other
23 manner whatsoever, except gifts between husband and wife or between
24 parents and children: Provided, That the husband or wife, or the
25 parents or children, previously have paid the tax on the vehicles
26 transferred to the State of West Virginia.

1 (3) The Division of Motor Vehicles may issue a certificate of
2 registration and title to an applicant if the applicant provides
3 sufficient proof to the Division of Motor Vehicles that the
4 applicant has paid the taxes and fees required by this section to
5 a motor vehicle dealership that has gone out of business or has
6 filed bankruptcy proceedings in the United States bankruptcy court
7 and the taxes and fees so required to be paid by the applicant have
8 not been sent to the division by the motor vehicle dealership or
9 have been impounded due to the bankruptcy proceedings: Provided,
10 That the applicant makes an affidavit of the same and assigns all
11 rights to claims for money the applicant may have against the motor
12 vehicle dealership to the Division of Motor Vehicles.

13 (4) The Division of Motor Vehicles shall issue a certificate
14 of registration and title to an applicant without payment of the
15 tax imposed by this section if the applicant is a corporation,
16 partnership or limited liability company transferring the vehicle
17 to another corporation, partnership or limited liability company
18 when the entities involved in the transfer are members of the same
19 controlled group and the transferring entity has previously paid
20 the tax on the vehicle transferred. For the purposes of this
21 section, control means ownership, directly or indirectly, of stock
22 or equity interests possessing fifty percent or more of the total
23 combined voting power of all classes of the stock of a corporation
24 or equity interests of a partnership or limited liability company
25 entitled to vote or ownership, directly or indirectly, of stock or
26 equity interests possessing fifty percent or more of the value of

1 the corporation, partnership or limited liability company.

2 (5) The tax imposed by this section does not apply to vehicles
3 to be registered as Class H vehicles or Class M vehicles, as
4 defined in section one, article ten of this chapter, which are used
5 or to be used in interstate commerce. Nor does the tax imposed by
6 this section apply to the titling of Class B vehicles registered at
7 a gross weight of fifty-five thousand pounds or more, or to the
8 titling of Class C semitrailers, full trailers, pole trailers and
9 converter gear: Provided, That if an owner of a vehicle has
10 previously titled the vehicle at a declared gross weight of
11 fifty-five thousand pounds or more and the title was issued without
12 the payment of the tax imposed by this section, then before the
13 owner may obtain registration for the vehicle at a gross weight
14 less than fifty-five thousand pounds, the owner shall surrender to
15 the commissioner the exempted registration, the exempted
16 certificate of title and pay the tax imposed by this section based
17 upon the current market value of the vehicle: Provided, however,
18 That notwithstanding the provisions of section nine, article
19 fifteen, chapter eleven of this code, the exemption from tax under
20 this section for Class B vehicles in excess of fifty-five thousand
21 pounds and Class C semitrailers, full trailers, pole trailers and
22 converter gear does not subject the sale or purchase of the
23 vehicles to the consumers sales and service tax.

24 (6) The tax imposed by this section does not apply to titling
25 of vehicles leased by residents of West Virginia. A tax is imposed
26 upon the monthly payments for the lease of any motor vehicle leased

1 by a resident of West Virginia, which tax is equal to five percent
2 of the amount of the monthly payment, applied to each payment, and
3 continuing for the entire term of the initial lease period. The
4 tax shall be remitted to the Division of Motor Vehicles on a
5 monthly basis by the lessor of the vehicle.

6 (7) The tax imposed by this section does not apply to titling
7 of vehicles by a registered dealer of this state for resale only,
8 nor does the tax imposed by this section apply to titling of
9 vehicles by this state or any political subdivision thereof, or by
10 any volunteer fire department or duly chartered rescue or ambulance
11 squad organized and incorporated under the laws of this state as a
12 nonprofit corporation for protection of life or property. The
13 total amount of revenue collected by reason of this tax shall be
14 paid into the State Road Fund and expended by the Commissioner of
15 Highways for matching federal funds allocated for West Virginia.
16 In addition to the tax, there is a charge of ~~five dollars~~ \$21 for
17 each original certificate of title or duplicate certificate of
18 title so issued: Provided, That this state or any political
19 subdivision of this state or any volunteer fire department or duly
20 chartered rescue squad is exempt from payment of the charge.

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

25 (9) If, by will or direct inheritance, a person becomes the
26 owner of a motor vehicle and the tax imposed by this section

1 previously has been paid to the Division of Motor Vehicles on that
2 vehicle, he or she is not required to pay the tax.

3 (10) A person who has paid the tax imposed by this section is
4 not required to pay the tax a second time for the same motor
5 vehicle, but is required to pay a charge of ~~five dollars~~ \$21 for
6 the certificate of retitling of that motor vehicle, except that the
7 tax shall be paid by the person when the title to the vehicle has
8 been transferred either in this or another state from the person to
9 another person and transferred back to the person.

10 (11) The tax imposed by this section does not apply to any
11 passenger vehicle offered for rent in the normal course of business
12 by a daily passenger rental car business as licensed under the
13 provisions of article six-d of this chapter. For purposes of this
14 section, a daily passenger car means a Class A motor vehicle having
15 a gross weight of eight thousand pounds or less and is registered
16 in this state or any other state. In lieu of the tax imposed by
17 this section, there is hereby imposed a tax of not less than ~~one~~
18 ~~dollar~~ \$1 nor more than ~~one dollar and fifty cents~~ \$1.50 for each
19 day or part of the rental period. The commissioner shall propose
20 an emergency rule in accordance with the provisions of article
21 three, chapter twenty-nine-a of this code to establish this tax.

22 (12) The tax imposed by this article does not apply to the
23 titling of any vehicle purchased by a senior citizen service
24 organization which is exempt from the payment of income taxes under
25 the United States Internal Revenue Code, § Title 26 U.S.C. §
26 501(c)(3) and which is recognized to be a bona fide senior citizen

1 service organization by the senior services bureau existing under
2 the provisions of article five, chapter sixteen of this code.

3 (13) The tax imposed by this section does not apply to the
4 titling of any vehicle operated by an urban mass transit authority
5 as defined in article twenty-seven, chapter eight of this code or
6 a nonprofit entity exempt from federal and state income tax under
7 the Internal Revenue Code and whose purpose is to provide mass
8 transportation to the public at large designed for the
9 transportation of persons and being operated for the transportation
10 of persons in the public interest.

11 (14) The tax imposed by this section does not apply to the
12 transfer of a title to a vehicle owned and titled in the name of a
13 resident of this state if the applicant:

14 (A) Was not a resident of this state at the time the applicant
15 purchased or otherwise acquired ownership of the vehicle;

16 (B) Presents evidence as the commissioner may require of
17 having titled the vehicle in the applicant's previous state of
18 residence;

19 (C) Has relocated to this state and can present such evidence
20 as the commissioner may require to show bona-fide residency in this
21 state, and

22 ~~(D) Presents an affidavit, completed by the assessor of the~~
23 ~~applicant's county of residence, establishing that the vehicle has~~
24 ~~been properly reported and is on record in the office of the~~
25 ~~assessor as personal property; and~~

26 ~~(E)~~ (D) Makes application to the division for a title and

1 registration, and pays all other fees required by this chapter
2 within thirty days of establishing residency in this state as
3 prescribed in subsection (a), section one-a of this article:
4 Provided, That a period of amnesty of three months be established
5 by the commissioner during the calendar year two thousand seven,
6 during which time any resident of this state, having titled his or
7 her vehicle in a previous state of residence, may pay without
8 penalty any fees required by this chapter and transfer the title of
9 his or her vehicle in accordance with the provisions of this
10 section.

11 (c) Notwithstanding any provisions of this code to the
12 contrary, the owners of trailers, semitrailers, recreational
13 vehicles and other vehicles not subject to the certificate of title
14 tax prior to the enactment of this chapter are subject to the
15 privilege tax imposed by this section: Provided, That the
16 certification of title of any recreational vehicle owned by the
17 applicant on the thirtieth day of June, one thousand nine hundred
18 eighty-nine, is not subject to the tax imposed by this section:
19 Provided, however, That mobile homes, manufactured homes, modular
20 homes and similar nonmotive propelled vehicles, except recreational
21 vehicles and house trailers, susceptible of being moved upon the
22 highways but primarily designed for habitation and occupancy,
23 rather than for transporting persons or property, or any vehicle
24 operated on a nonprofit basis and used exclusively for the
25 transportation of mentally retarded or physically handicapped
26 children when the application for certificate of registration for

1 the vehicle is accompanied by an affidavit stating that the vehicle
2 will be operated on a nonprofit basis and used exclusively for the
3 transportation of mentally retarded and physically handicapped
4 children, are not subject to the tax imposed by this section, but
5 are taxable under the provisions of articles fifteen and fifteen-a,
6 chapter eleven of this code.

7 (d) Beginning on the first of July, two thousand and eight,
8 the tax imposed under this subsection (b) of this section is
9 abolished and after that date no certificate of title for any motor
10 vehicle may be issued to any applicant unless the applicant
11 provides sufficient proof to the Division of Motor Vehicles that
12 the applicant has paid the fees required by this article and the
13 tax imposed under section three-b, article fifteen, chapter eleven
14 of this code.

15 (e) Any person making any affidavit required under any
16 provision of this section who knowingly swears falsely, or any
17 person who counsels, advises, aids or abets another in the
18 commission of false swearing, or any person, while acting as an
19 agent of the Division of Motor Vehicles, issues a vehicle
20 registration without first collecting the fees and taxes or fails
21 to perform any other duty required by this chapter or chapter
22 eleven of this code to be performed before a vehicle registration
23 is issued is, on the first offense, guilty of a misdemeanor and,
24 upon conviction thereof, shall be fined not more than ~~five hundred~~
25 ~~dollars~~ \$500 or be confined in jail for a period not to exceed six
26 months or, in the discretion of the court, both fined and confined.

1 For a second or any subsequent conviction within five years, that
2 person is guilty of a felony and, upon conviction thereof, shall be
3 fined not more than ~~five thousand dollars~~ \$5,000 or be imprisoned
4 in a state correctional facility for not less than one year nor
5 more than five years or, in the discretion of the court, both fined
6 and imprisoned.

7 (f) Notwithstanding any other provisions of this section, any
8 person in the military stationed outside West Virginia or his or
9 her dependents who possess a motor vehicle with valid registration
10 are exempt from the provisions of this article for a period of nine
11 months from the date the person returns to this state or the date
12 his or her dependent returns to this state, whichever is later.

13 (g) No person may transfer, purchase or sell a factory-built
14 home without a certificate of title issued by the commissioner in
15 accordance with the provisions of this article:

16 (1) Any person who fails to provide a certificate of title
17 upon the transfer, purchase or sale of a factory-built home is
18 guilty of a misdemeanor and, upon conviction thereof, shall for the
19 first offense be fined not less than ~~one hundred dollars~~ \$100 nor
20 more than ~~one thousand dollars~~ \$1,000, or be confined in jail for
21 not more than one year, or both fined and confined. For each
22 subsequent offense, the fine may be increased to not more than ~~two~~
23 ~~thousand dollars~~ \$2,000, with confinement in jail not more than one
24 year, or both fined and confined.

25 (2) Failure of the seller to transfer a certificate of title
26 upon sale or transfer of the factory-built home gives rise to a

1 cause of action, upon prosecution thereof, and allows for the
2 recovery of damages, costs and reasonable attorney fees.

3 (3) This subsection does not apply to a mobile or manufactured
4 home for which a certificate of title has been canceled pursuant to
5 section twelve-b of this article.

6 (h) Notwithstanding any other provision to the contrary,
7 whenever reference is made to the application for or issuance of
8 any title or the recordation or release of any lien, it includes
9 the application, transmission, recordation, transfer of ownership
10 and storage of information in an electronic format.

11 (i) Notwithstanding any other provision contained in this
12 section, nothing herein shall be considered to include modular
13 homes as defined in subsection (i), section two, article fifteen,
14 chapter thirty-seven of this code and built to the State Building
15 Code as established by legislative rules promulgated by the State
16 Fire Commission pursuant to section five-b, article three, chapter
17 twenty-nine of this code.

18 **ARTICLE 4. TRANSFERS OF TITLE OR INTEREST.**

19 **§17A-4-1. Registration expires on transfer by owner; transfer,**
20 **surrender or retention of plates.**

21 Whenever the owner of a registered vehicle transfers or
22 assigns his title, or interest thereto, the registration of such
23 vehicle shall expire: Provided, That such owner, if he has made
24 application to the department within sixty days from the date of
25 purchase to have said registration plates transferred to be used on

1 another vehicle owned by said owner, may then operate the other
2 vehicle for a period of sixty days, but in no event longer than
3 sixty days from the date of original transfer. Upon such transfer,
4 it shall be the duty of the original owner to retain the
5 registration plates issued therefor and to immediately notify the
6 commissioner of such transfer upon such form as may be provided
7 therefor and to deliver to him the certificate of registration,
8 whereupon the commissioner shall, upon the payment of a fee of ~~five~~
9 ~~dollars~~ \$6, issue a new certificate showing the use to be made of
10 such plates. Such plates may then be used by such owner on another
11 vehicle of the same class as the vehicle for which they were
12 originally issued if such other vehicle does not require a greater
13 license fee than was required for such original vehicle. If such
14 other vehicle requires a greater license fee than such original
15 vehicle, then such plates may be used by paying such difference to
16 the commissioner. When such transfer of ownership is made to a
17 licensed dealer in motor vehicles it shall be the duty of such
18 dealer to immediately execute notification of transfer, in
19 triplicate, and to have this notification properly signed by the
20 owner making the transfer. The dealer shall immediately forward to
21 the department the original copy of the notification of transfer.
22 One copy of the notification of transfer shall be given to the
23 owner and one shall be retained by the dealer. The owner shall
24 immediately send to the ~~department~~ division the transfer fee of
25 ~~five dollars~~ \$6 with any additional fee that may be required under
26 the terms of this chapter. The owner's copy, properly signed by

1 the dealer, will be the owner's identification until he receives a
2 new registration card from the ~~department~~ division.

3 The owner of a set of registration plates may surrender them
4 to the commissioner together with the registration card and, upon
5 the payment of ~~five dollars~~ \$6 as an exchange fee and upon the
6 payment of such additional fees as are necessary to equalize the
7 value of the plates surrendered with the value of registration
8 plates desired, receive in exchange a set of plates and
9 registration card for a vehicle of a different class.

10 **§17A-4-10. Salvage certificates for certain wrecked or damaged**
11 **vehicles; fee; penalty.**

12 (a) In the event a motor vehicle is determined to be a total
13 loss or otherwise designated as "totaled" by ~~any~~ an insurance
14 company or insurer, and upon payment of a total loss claim to ~~any~~
15 an insured or claimant owner for the purchase of the vehicle, the
16 insurance company or the insurer, as a condition of the payment,
17 shall require the owner to surrender the certificate of title:
18 *Provided*, That an insured or claimant owner may choose to retain
19 physical possession and ownership of a total loss vehicle. If the
20 vehicle owner chooses to retain the vehicle and the vehicle has not
21 been determined to be a cosmetic total loss in accordance with
22 subsection (d) of this section, the insurance company or insurer
23 shall also require the owner to surrender the vehicle registration
24 certificate. The term "total loss" means a motor vehicle which has
25 sustained damages equivalent to seventy-five percent or more of the

1 market value as determined by a nationally accepted used car value
2 guide or meets the definition of a flood-damaged vehicle as defined
3 in this section.

4 (b) The insurance company or insurer shall, prior to the
5 payment of the total loss claim, determine if the vehicle is
6 repairable, cosmetically damaged or nonrepairable. Within ten days
7 of payment of the total loss claim, the insurance company or
8 insurer shall surrender the certificate of title, a copy of the
9 claim settlement, a completed application on a form prescribed by
10 the commissioner and the registration certificate if the owner has
11 chosen to keep the vehicle to the Division of Motor Vehicles.

12 (c) If the insurance company or insurer determines that the
13 vehicle is repairable, the division shall issue a "salvage
14 certificate", on a form prescribed by the commissioner, in the name
15 of the insurance company, ~~or~~ the insurer or the vehicle owner if
16 the owner has chosen to retain the vehicle. The certificate shall
17 contain, on the reverse, ~~thereof~~ spaces for one successive
18 assignment before a new certificate at an additional fee is
19 required. Upon the sale of the vehicle, the insurance company, ~~or~~
20 insurer or ~~the~~ vehicle owner if the owner has chosen to retain the
21 vehicle, shall complete the assignment of ownership on the salvage
22 certificate and deliver it to the purchaser. The vehicle ~~shall~~ may
23 not be titled or registered for operation on the streets or
24 highways of this state unless there is compliance with subsection
25 (g) of this section. The division shall charge a fee of ~~fifteen~~
26 ~~dollars~~ \$21 for each salvage title issued.

1 (d) If the insurance company or insurer determines the damage
2 to a totaled vehicle is exclusively cosmetic and no repair is
3 necessary in order to legally and safely operate the motor vehicle
4 on the roads and highways of this state, the insurance company or
5 insurer shall, upon payment of the claim, submit the certificate of
6 title to the division. Neither the insurance company nor the
7 division may require the vehicle owner to surrender the
8 registration certificate in the event of a cosmetic total loss
9 settlement.

10 (1) The division shall, without further inspection, issue a
11 title branded "cosmetic total loss" to the insured or claimant
12 owner if the insured or claimant owner wishes to retain possession
13 of the vehicle, in lieu of a "salvage certificate". The division
14 shall charge a fee of ~~five dollars~~ \$21 for each "cosmetic total
15 loss" title issued. The terms "cosmetically damaged" and "cosmetic
16 total loss" do not include any vehicle which has been damaged by
17 flood or fire. The designation "cosmetic total loss" on a title
18 may not be removed.

19 (2) If the insured or claimant owner elects not to take
20 possession of the vehicle and the insurance company or insurer
21 retains possession, the division shall issue a cosmetic total loss
22 salvage certificate to the insurance company or insurer. The
23 division shall charge a fee of ~~fifteen dollars~~ \$21 for each
24 cosmetic total loss salvage certificate issued. The division
25 shall, upon surrender of the cosmetic total loss salvage
26 certificate issued under the provisions of this paragraph and

1 payment of the five percent ~~privilege tax~~ consumers sales tax on
2 the fair market value of the vehicle as determined by the
3 commissioner, issue a title branded "cosmetic total loss" without
4 further inspection.

5 (e) If the insurance company or insurer determines that the
6 damage to a totaled vehicle renders it nonrepairable, incapable of
7 safe operation for use on roads and highways and ~~which has~~ as
8 having no resale value except as a source of parts or scrap, the
9 insurance company or vehicle owner shall, in the manner prescribed
10 by the commissioner, request that the division issue a
11 nonrepairable motor vehicle certificate in lieu of a salvage
12 certificate. The division shall issue a nonrepairable motor
13 vehicle certificate without charge.

14 (f) Any owner who scraps, compresses, dismantles or destroys
15 a vehicle without further transfer or sale for which a certificate
16 of title, nonrepairable motor vehicle certificate or salvage
17 certificate has been issued shall, within ~~twenty~~ forty-five days,
18 surrender the certificate of title, nonrepairable motor vehicle
19 certificate, or salvage certificate to the division for
20 cancellation.

21 (g) Any person who purchases or acquires a vehicle as salvage
22 or scrap, to be dismantled, compressed or destroyed, shall, within
23 ~~twenty~~ forty-five days, ~~surrender the certificate to the division.~~
24 to the division the certificate of title, nonrepairable motor
25 vehicle certificate, salvage certificate or a statement of
26 cancellation signed by the seller, on a form prescribed by the

1 commissioner. Subsequent purchasers of salvage or scrap are not
2 required to comply with the notification requirement.

3 ~~(g)~~ (h) If the motor vehicle is a "reconstructed vehicle" as
4 defined in this section or section one, article one of this
5 chapter, it may not be titled or registered for operation until it
6 has been inspected by an official state inspection station and by
7 the Division of Motor Vehicles. Following an approved inspection,
8 an application for a new certificate of title may be submitted to
9 the division. ~~however,~~ The applicant ~~shall be~~ is required to retain
10 all receipts for component parts, equipment and materials used in
11 the reconstruction. The salvage certificate shall also be
12 surrendered to the division before a certificate of title may be
13 issued with the appropriate brand.

14 ~~(h)~~ (i) The owner or title holder of ~~any~~ a motor vehicle
15 titled in this state which has previously been branded in this
16 state or another state as "salvage", "reconstructed", "cosmetic
17 total loss", "cosmetic total loss salvage", "flood" or "fire", ~~or~~
18 an equivalent term under another state's laws or a term consistent
19 with the intent of the National Motor Vehicle Title Information
20 System established pursuant to 49 U.S.C. §30502 shall, upon
21 becoming aware of the brand, apply for and receive a title from the
22 Division of Motor Vehicles on which the brand "reconstructed",
23 "salvage", "cosmetic total loss", "cosmetic total loss salvage",
24 "flood", ~~or~~ "fire" or other brand is shown. The division shall
25 charge a fee of ~~five dollars~~ \$21 for each title so issued.

26 ~~(i)~~ (j) If application is made for title to a motor vehicle,

1 the title to which has previously been branded "reconstructed",
2 "salvage", "cosmetic total loss", "cosmetic total loss salvage",
3 "flood", ~~or "fire"~~ or other brand by the Division of Motor Vehicles
4 under this section and said application is accompanied by a title
5 from another state which does not carry the brand, the division
6 shall, before issuing the title, affix the brand "reconstructed",
7 "cosmetic total loss", "cosmetic total loss salvage", "flood", ~~or~~
8 "fire" or other brand to the title. The ~~privilege consumers sales~~
9 tax paid on a motor vehicle titled as "reconstructed", "cosmetic
10 total loss", "flood", ~~or "fire"~~ or other brand under the provisions
11 of this section shall be based on fifty percent of the fair market
12 value of the vehicle as determined by a nationally accepted used
13 car value guide to be used by the commissioner.

14 ~~(j)~~ (k) The division shall charge a fee of ~~fifteen dollars~~ \$21
15 for the issuance of each salvage certificate or cosmetic total loss
16 salvage certificate but shall not require the payment of the five
17 percent ~~privilege tax~~ consumers sales tax. However, upon
18 application for a certificate of title for a reconstructed,
19 cosmetic total loss, flood or fire damaged vehicle or other brand,
20 the division shall collect the five percent privilege tax on the
21 fair market value of the vehicle as determined by the commissioner
22 unless the applicant is otherwise exempt from the payment of such
23 privilege tax. A wrecker/dismantler/rebuilder, licensed by the
24 division, is exempt from the payment of the five percent ~~privilege~~
25 ~~tax~~ consumers sales tax upon titling a reconstructed vehicle. The
26 division shall collect a fee of ~~thirty-five dollars~~ \$35 per vehicle

1 for inspections of reconstructed vehicles. These fees shall be
2 deposited in a special fund created in the State Treasurer's Office
3 and may be expended by the division to carry out the provisions of
4 this article: *Provided*, That on and after the first day of July,
5 2007, any balance in the special fund and all fees collected
6 pursuant to this section shall be deposited in the State Road Fund.
7 Licensed wreckers/dismantlers/rebuilders may charge a fee not to
8 exceed ~~twenty-five dollars~~ \$25 for all vehicles owned by private
9 rebuilders which are inspected at the place of business of a
10 wrecker/dismantler/rebuilder.

11 ~~(k)~~ (l) As used in this section:

12 (1) "Reconstructed vehicle" means the vehicle was totaled
13 under the provisions of this section or by the provisions of
14 another state or jurisdiction and has been rebuilt in accordance
15 with the provisions of this section or in accordance with the
16 provisions of another state or jurisdiction or meets the provisions
17 of subsection (m), section one, article one of this chapter.

18 (2) "Flood-damaged vehicle" means that the vehicle was
19 submerged in water to the extent that water entered the passenger
20 or trunk compartment.

21 (3) "Other brand" means a brand consistent with the intent of
22 the National Motor Vehicle Title Information System established
23 pursuant to 49 U.S.C. §30502 and rules promulgated by the United
24 States Department of Justice to alert consumers, motor vehicle
25 dealers or the insurance industry of the history of a vehicle.

26 ~~(l)~~ (m) Every vehicle owner shall comply with the branding

1 requirements for a totaled vehicle whether or not the owner
2 receives an insurance claim settlement for a totaled vehicle.

3 ~~(m)~~ (n) A certificate of title issued by the division for a
4 reconstructed vehicle shall contain markings in bold print on the
5 face of the title that it is for a reconstructed, flood or fire
6 damaged vehicle.

7 ~~(n)~~ (o) Any person who knowingly provides false or fraudulent
8 information to the division that is required by this section in an
9 application for a title, a cosmetic total loss title, a
10 reconstructed vehicle title or a salvage certificate or who
11 knowingly fails to disclose to the division information required by
12 this section to be included in the application or who otherwise
13 violates the provisions of this section ~~shall be~~ is guilty of a
14 misdemeanor and, upon conviction thereof, shall for each incident
15 be fined not less than ~~one thousand dollars~~ \$1000 nor more than ~~two~~
16 ~~thousand five hundred dollars~~ \$2500, or imprisoned in jail for not
17 more than one year, or both fined and imprisoned.

18 **ARTICLE 4A. LIENS AND ENCUMBRANCES ON VEHICLES TO BE SHOWN ON**
19 **CERTIFICATE OF TITLE; NOTICE TO CREDITORS AND PURCHASERS.**

20 **§17A-4A-10. Fee for recording and release of lien.**

21 The Division of Motor Vehicles ~~is hereby authorized to~~ shall
22 charge a fee of ~~five dollars~~ \$13 for the recording of any lien
23 either in an electronic or paper format created by the voluntary
24 act of the owner and endorsing it upon the title certificate issued
25 pursuant to this article, and the Division of Motor Vehicles ~~is~~

1 hereby ~~authorized to~~ shall charge a fee of ~~fifty cents~~ \$13 for
2 recordation of any release of a lien created by the voluntary act
3 of the owner: Provided, That no charge shall be made for the
4 endorsement and recordation of liens or releases thereof as
5 provided under section nine of this article. No charge shall be
6 made for the issuance of a title to the owner of a vehicle upon the
7 receipt of an electronic release of the final lien.

8 **ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.**

9 **§17A-10-3. Registration fees for vehicles equipped with pneumatic**
10 **tires.**

11 The following registration fees for the classes indicated
12 shall be paid to the division for the registration of vehicles
13 subject to registration under this chapter when equipped with
14 pneumatic tires:

15 (a) Registration fees for the following classes shall be paid
16 to the division annually:

17 (1) Class A.--The registration fee for all motor vehicles of
18 this class are ~~is~~ \$28.50:

19 (A) \$38.50 for declared gross weights less than 4001 pounds;
20 and

21 (B) \$58.50 for declared gross weights of 4001 pounds to 8000
22 pounds.

23 ~~Provided, That~~ The registration fees and any other fees
24 required by this chapter for Class A vehicles under the optional
25 biennial staggered registration system shall be multiplied by two

1 and paid biennially to the division.

2 No license fee may be charged for vehicles owned by churches,
3 or by trustees for churches, which are regularly used for
4 transporting parishioners to and from church services.
5 Notwithstanding the exemption, the certificate of registration and
6 license plates shall be obtained the same as other cards and plates
7 under this article.

8 (2) Class B.--The registration fee for all motor vehicles of
9 this class is as follows:

10 (A) For declared gross weights of eight thousand one pounds to
11 sixteen thousand pounds--\$28 plus \$5 for each one thousand pounds
12 or fraction of one thousand pounds that the gross weight of the
13 vehicle or combination of vehicles exceeds eight thousand pounds.

14 (B) For declared gross weights greater than sixteen thousand
15 pounds, but less than fifty-five thousand pounds--\$78.50 plus \$10
16 for each one thousand or fraction of one thousand pounds that the
17 gross weight of the vehicle or combination of vehicles exceeds
18 sixteen thousand pounds.

19 (C) For declared gross weights of fifty-five thousand pounds
20 or more--\$737. 50 plus \$15.75 for each one thousand pounds or
21 fraction of one thousand pounds that the gross weight of the
22 vehicle or combination of vehicles exceeds fifty-five thousand
23 pounds.

24 (3) Class G.--The registration fee for each motorcycle or
25 parking enforcement vehicle is \$8: Provided, That the registration
26 fee and any other fees required by this chapter for Class G

1 vehicles shall be for at least one year and under an optional
2 biennial registration system the annual fee shall be multiplied by
3 two and paid biennially to the division.

4 (4) Class H.--The registration fee for all vehicles for this
5 class operating entirely within the state is \$5; and for vehicles
6 engaged in interstate transportation of persons, the registration
7 fee is the amount of the fees provided by this section for Class B,
8 reduced by the amount that the mileage of the vehicles operated in
9 states other than West Virginia bears to the total mileage operated
10 by the vehicles in all states under a formula to be established by
11 the Division of Motor Vehicles.

12 (5) Class J.--The registration fee for all motor vehicles of
13 this class is \$85. Ambulances and hearses used exclusively as
14 ambulances and hearses are exempt from the special fees set forth
15 in this section.

16 (6) Class M.--The registration fee for all vehicles of this
17 class is \$17.50.

18 (7) Class X farm truck.--The registration fee for all motor
19 vehicles of this class is as follows:

20 (A) For farm trucks of declared gross weights of eight
21 thousand one pounds to sixteen thousand pounds--\$30.

22 (B) For farm trucks of declared gross weights of sixteen
23 thousand one pounds to twenty-two thousand pounds--\$60.

24 (C) For farm trucks of declared gross weights of twenty-two
25 thousand one pounds to twenty-eight thousand pounds--\$90.

26 (D) For farm trucks of declared gross weights of twenty-eight

1 thousand one pounds to thirty-four thousand pounds--\$115.

2 (E) For farm trucks of declared gross weights of thirty-four
3 thousand one pounds to forty-four thousand pounds--\$160.

4 (F) For farm trucks of declared gross weights of forty-four
5 thousand one pounds to fifty-four thousand pounds--\$205.

6 (G) For farm trucks of declared gross weights of fifty-four
7 thousand one pounds to eighty thousand pounds--\$250: Provided,
8 That the provisions of subsection (a), section eight, article one,
9 chapter seventeen-e of this code do not apply if the vehicle
10 exceeds sixty-four thousand pounds and is a truck tractor or road
11 tractor.

12 (b) Registration fees for the following classes shall be paid
13 to the division for a maximum period of three years, or portion of
14 a year based on the number of years remaining in the three-year
15 period designated by the commissioner:

16 (1) Class R.--The annual registration fee for all vehicles of
17 this class is \$12.

18 (2) Class T.--The annual registration fee for all vehicles of
19 this class is \$8.

20 (c) The fees paid to the division for a multiyear registration
21 provided by this chapter shall be the same as the annual
22 registration fee established by this section and any other fee
23 required by this chapter multiplied by the number of years for
24 which the registration is issued.

25 (d) The registration fee for all Class C vehicles is \$50. On
26 or before July 1, 2000, all Class C trailers shall be registered

1 for the duration of the owner's interest in the trailer and do not
2 expire until either sold or otherwise permanently removed from the
3 service of the owner: Provided, That a registrant may transfer a
4 Class C registration plate from a trailer owned less than thirty
5 days to another Class C trailer titled in the name of the
6 registrant upon payment of the transfer fee prescribed in section
7 ten of this article.

8 **§17A-10-10. Fees upon transfer of registration and issuance of**
9 **certificates of title.**

10 A fee of ~~five dollars~~ \$6 shall be paid for a transfer of
11 registration by an owner from one vehicle to another vehicle of the
12 same class or for surrender of registration of one vehicle in
13 exchange for registration of a vehicle of a different class in
14 addition to the payment of any difference in fees as provided in
15 section one, article four of this chapter.

16 A fee of ~~five dollars~~ \$6 shall be paid for the transfer of
17 registration from a deceased person to his legal heir or legatee as
18 provided in section five, article four of this chapter.

19 A fee of ~~five dollars~~ \$21 shall be paid for the issuance of a
20 certificate of title.

21 **§17A-10-11. Fees for duplicate registration plates, registration**
22 **cards and certificates of title.**

23 A fee of ~~five dollars~~ \$5 shall be paid for the issuance of
24 duplicate or substitute ~~registration plates,~~ registration cards.
25 A fee of \$15 shall be paid for the issuance of duplicate or

1 substitute registration plates or decals. or certificates of title.
2 A fee of \$21 shall be paid for the issuance of duplicate
3 certificates of title.

4 **CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.**

5 **§17B-2-1. Drivers must be licensed; types of licenses; licensees**
6 **need not obtain local government license; motorcycle driver**
7 **license; identification cards.**

8 (a) (1) No person, except those hereinafter expressly exempted,
9 may drive any motor vehicle upon a street or highway in this state
10 or upon any subdivision street used by the public generally unless
11 the person has a valid driver's license issued pursuant to this
12 code for the type or class of vehicle being driven.

13 (2) Any person licensed to operate a motor vehicle pursuant to
14 this code may exercise the privilege thereby granted in the manner
15 provided in this code and, except as otherwise provided by law, is
16 not required to obtain any other license to exercise the privilege
17 by any county, municipality or local board or body having authority
18 to adopt local police regulations.

19 (b) The division, upon issuing a driver's license, shall
20 indicate on the license the type or general class or classes of
21 vehicles the licensee may operate in accordance with this code,
22 federal law or rule. Licenses shall be issued in different colors
23 for those drivers under age eighteen, those drivers age eighteen to
24 twenty-one and adult drivers. The commissioner is authorized to
25 select and assign colors to the licenses of the various age groups.

1 (c) Driver's licenses issued by the division shall be
2 classified in the following manner:

3 (1) A Class A, B or C license shall be issued to those persons
4 eighteen years of age or older with two years of driving experience
5 who have qualified for the commercial driver's license established
6 by chapter seventeen-e of this code and the federal Motor Carrier
7 Safety and Improvement Act of 1999 and subsequent rules, and have
8 paid the required fee.

9 (2) A Class D license shall be issued to those persons
10 eighteen years and older with one year of driving experience who
11 operate motor vehicles other than those types of vehicles which
12 require the operator to be licensed under the provisions of chapter
13 seventeen-e of this code and federal law and rule and whose primary
14 function or employment is the transportation of persons or property
15 for compensation or wages and have paid the required fee. For the
16 purpose of regulating the operation of motor vehicles, wherever the
17 term "chauffeur's license" is used in this code, it shall be
18 construed to mean the Class A, B, C or D license described in this
19 section or chapter seventeen-e of this code or federal law or rule:
20 Provided, That anyone not required to be licensed under the
21 provisions of chapter seventeen-e of this code and federal law or
22 rule and who operates a motor vehicle registered or required to be
23 registered as a Class A motor vehicle, as that term is defined in
24 section one, article ten, chapter seventeen-a of this code, with a
25 gross vehicle weight rating of less than eight thousand one pounds,
26 is not required to obtain a Class D license.

1 (3) A Class E license shall be issued to those persons who
2 have qualified for a driver's license under the provisions of this
3 chapter and who are not required to obtain a Class A, B, C or D
4 license and who have paid the required fee. The Class E license
5 may be endorsed under the provisions of section seven-b of this
6 article for motorcycle operation. The Class E or (G) license for
7 any person under the age of eighteen may also be endorsed with the
8 appropriate graduated driver license level in accordance with the
9 provisions of section three-a of this article.

10 (4) A Class F license shall be issued to those persons who
11 successfully complete the motorcycle examination procedure provided
12 by this chapter and have paid the required fee, but who do not
13 possess a Class A, B, C, D or E driver's license.

14 (5) A Class G driver's license or instruction permit shall be
15 issued to a person using bioptic telescopic lenses who has
16 successfully completed an approved driver training program and
17 complied with all other requirements of article two-b of this
18 chapter.

19 (d) All licenses issued under this section may contain
20 information designating the licensee as a diabetic, organ donor, as
21 deaf or hard-of-hearing or as having any other handicap or
22 disability or a person who is an honorably discharged veteran of
23 any branch of the armed forces of the United States, according to
24 criteria established by the division, if the licensee requests this
25 information on the license.

26 (e) No person, except those hereinafter expressly exempted,

1 may drive any motorcycle upon a street or highway in this state or
2 upon any subdivision street used by the public generally unless the
3 person has a valid motorcycle license, a valid license which has
4 been endorsed under section seven-b of this article for motorcycle
5 operation or a valid motorcycle instruction permit.

6 (f) (1) An identification card may be issued to any person
7 who:

8 (A) Is a resident of this state in accordance with the
9 provisions of section one-a, article three, chapter seventeen-a of
10 this code;

11 (B) Has reached the age of two years. The division may also
12 issue an identification card to a person under the age of two years
13 for good cause shown;

14 (C) Has paid the required fee of ~~two dollars and fifty cents~~
15 \$6.50 per year: *Provided*, That the fee is not required if the
16 applicant is sixty-five years or older or is legally blind; and

17 (D) Presents a birth certificate or other proof of age and
18 identity acceptable to the division with a completed application on
19 a form furnished by the division.

20 (2) The identification card shall contain the same information
21 as a driver's license except that the identification card shall be
22 clearly marked as an identification card. However, the division
23 may issue an identification card with less information to persons
24 under the age of sixteen. An identification card may be renewed
25 annually on application and payment of the fee required by this
26 section.

1 (A) Every identification card issued to a person who has
2 attained his or her twenty-first birthday shall expire on the
3 licensee's birthday in those years in which the licensee's age is
4 evenly divisible by five. Except as provided in paragraph (B) of
5 this subdivision, no identification card may be issued for less
6 than three years or for more than seven years and expires on the
7 licensee's birthday in those years in which the licensee's age is
8 evenly divisible by five.

9 (B) Every identification card issued to a person who has not
10 attained his or her twenty-first birthday shall expire thirty days
11 after the licensee's twenty-first birthday.

12 ~~(C) Every identification card issued to persons under the age~~
13 ~~of sixteen shall be issued for a period of two years and shall~~
14 ~~expire on the last day of the month in which the applicant's~~
15 ~~birthday occurs.~~

16 (3) The division may issue an identification card to an
17 applicant whose privilege to operate a motor vehicle has been
18 refused, canceled, suspended or revoked under the provisions of
19 this code.

20 (g) Any person violating the provisions of this section is
21 guilty of a misdemeanor and, upon conviction, shall be fined not
22 more than ~~five hundred dollars~~ \$500; and upon a second or
23 subsequent conviction, shall be fined not more than ~~five hundred~~
24 ~~dollars~~ \$500 or confined in jail not more than six months, or both.

25 **§17B-2-3a. Graduated driver's license.**

26 (a) Any person under the age of eighteen may not operate a

1 motor vehicle unless he or she has obtained a graduated driver's
2 license in accordance with the three-level graduated driver's
3 license system described in the following provisions.

4 (b) Any person under the age of twenty-one, regardless of
5 class or level of licensure, who operates a motor vehicle with any
6 measurable alcohol in his or her system is subject to the
7 provisions of section two, article five, chapter seventeen-c of
8 this code and section two, article five-a of said chapter. Any
9 person under the age of eighteen, regardless of class or licensure
10 level, is subject to the mandatory school attendance and
11 satisfactory academic progress provisions of section eleven,
12 article eight, chapter eighteen of this code.

13 (c) Level one instruction permit.--An applicant who is fifteen
14 years or older meeting all other requirements prescribed in this
15 code may be issued a level one instruction permit.

16 (1) Eligibility.--The division shall not issue a level one
17 instruction permit unless the applicant:

18 (A) Presents a completed application, as prescribed by the
19 provisions of section six of this article, and which is accompanied
20 by a writing, duly acknowledged, consenting to the issuance of the
21 graduated driver's license and executed by a parent or guardian
22 entitled to custody of the applicant;

23 (B) Presents a certified copy of a birth certificate issued by
24 a state or other governmental entity responsible for vital records
25 unexpired, or a valid passport issued by the United States
26 government evidencing that the applicant meets the minimum age

1 requirement and is of verifiable identity;

2 (C) Passes the vision and written knowledge examination and
3 completes the driving under the influence awareness program, as
4 prescribed in section seven of this article;

5 (D) Presents a driver's eligibility certificate or otherwise
6 shows compliance with the provisions of section eleven, article
7 eight, chapter eighteen of this code; and

8 (E) Pays a fee of \$5 which shall permit the applicant ~~two~~
9 ~~attempts~~ one attempt at the written knowledge test.

10 (2) Terms and conditions of instruction permit.--A level one
11 instruction permit issued under the provisions of this section is
12 valid until thirty days after the date the applicant attains the
13 age of eighteen and is not renewable. However, any permit holder
14 who allows his or her permit to expire prior to successfully
15 passing the road skills portion of the driver examination, and who
16 has not committed any offense which requires the suspension,
17 revocation or cancellation of the instruction permit, may reapply
18 for a new instruction permit under the provisions of section six of
19 this article. The division shall immediately revoke the permit
20 upon receipt of a second conviction for a moving violation of
21 traffic regulations and laws of the road or violation of the terms
22 and conditions of a level one instruction permit, which convictions
23 have become final unless a greater penalty is required by this
24 section or any other provision of this code. Any person whose
25 instruction permit has been revoked is disqualified from retesting
26 for a period of ninety days. However, after the expiration of

1 ninety days, the person may retest if otherwise eligible. In
2 addition to all other provisions of this code for which a driver's
3 license may be restricted, suspended, revoked or canceled, the
4 holder of a level one instruction permit may only operate a motor
5 vehicle under the following conditions:

6 (A) Under the direct supervision of a licensed driver,
7 twenty-one years of age or older, or a driver's education or
8 driving school instructor who is acting in an official capacity as
9 an instructor, who is fully alert and unimpaired, and the only
10 other occupant of the front seat. The vehicle may be operated with
11 no more than two additional passengers, unless the passengers are
12 family members;

13 (B) Between the hours of five a.m. and ten p.m.;

14 (C) All occupants must use safety belts in accordance with the
15 provisions of section forty-nine, article fifteen, chapter
16 seventeen-c of this code;

17 (D) Without any measurable blood alcohol content, in
18 accordance with the provisions of subsection (h), section two,
19 article five, chapter seventeen-c of this code; and

20 (E) Maintains current school enrollment and is making
21 satisfactory academic progress or otherwise shows compliance with
22 the provisions of section eleven, article eight, chapter eighteen
23 of this code.

24 (F) A holder of a level one instruction permit who is under
25 the age of eighteen years shall be prohibited from using a wireless
26 communication device while operating a motor vehicle, unless the

1 use of the wireless communication device is for contacting a 9-1-1
2 system. A person violating the provisions of this paragraph is
3 guilty of a misdemeanor and, upon conviction thereof, shall for the
4 first offense be fined \$25; for a second offense be fined \$50; and
5 for a third or subsequent offense be fined \$75.

6 (d) Level two intermediate driver's license.--An applicant
7 sixteen years of age or older, meeting all other requirements of
8 the code, may be issued a level two intermediate driver's license.

9 (1) Eligibility.--The division shall not issue a level two
10 intermediate driver's license unless the applicant:

11 (A) Presents a completed application as prescribed in section
12 six of this article;

13 (B) Has held the level one instruction permit conviction-free
14 for the one hundred eighty days immediately preceding the date of
15 application for a level two intermediate license;

16 (C) Has completed either a driver's education course approved
17 by the State Department of Education or fifty hours of
18 behind-the-wheel driving experience, including a minimum of ten
19 hours of nighttime driving, certified by a parent or legal guardian
20 or other responsible adult over the age of twenty-one as indicated
21 on the form prescribed by the division: Provided, That nothing in
22 this paragraph shall be construed to require any school or any
23 county board of education to provide any particular number of
24 driver's education courses or to provide driver's education
25 training to any student;

26 (D) Presents a driver's eligibility certificate or otherwise

1 shows compliance with the provisions of section eleven, article
2 eight, chapter eighteen of this code;

3 (E) Passes the road skills examination as prescribed by
4 section seven of this article; and

5 (F) Pays a fee of \$5 which shall permit the holder one attempt
6 at the road skills examination.

7 (2) Terms and conditions of a level two intermediate driver's
8 license.--A level two intermediate driver's license issued under
9 the provisions of this section shall expire thirty days after the
10 applicant attains the age of eighteen, or until the licensee
11 qualifies for a level three full Class E license, whichever comes
12 first. In addition to all other provisions of this code for which
13 a driver's license may be restricted, suspended, revoked or
14 canceled, the holder of a level two intermediate driver's license
15 may only operate a motor vehicle under the following conditions:

16 (A) Unsupervised between the hours of five a. m. and ten p.
17 m.;

18 (B) Only under the direct supervision of a licensed driver,
19 age twenty-one years or older, between the hours of ten p. m. and
20 five a. m. except when the licensee is going to or returning from:

21 (i) Lawful employment;

22 (ii) A school-sanctioned activity;

23 (iii) A religious event; or

24 (iv) An emergency situation that requires the licensee to
25 operate a motor vehicle to prevent bodily injury or death of
26 another;

1 (C) All occupants shall use safety belts in accordance with
2 the provisions of section forty-nine, article fifteen, chapter
3 seventeen-c of this code;

4 (D) For the first six months after issuance of a level two
5 intermediate driver's license, the licensee may not operate a motor
6 vehicle carrying any passengers less than twenty years old, unless
7 these passengers are family members of the licensee; for the second
8 six months after issuance of a level two intermediate driver's
9 license, the licensee may not operate a motor vehicle carrying more
10 than one passenger less than twenty years old, unless these
11 passengers are family members of the licensee;

12 (E) Without any measurable blood alcohol content in accordance
13 with the provisions of subsection (h), section two, article five,
14 chapter seventeen-c of this code;

15 (F) Maintains current school enrollment and is making
16 satisfactory academic progress or otherwise shows compliance with
17 the provisions of section eleven, article eight, chapter eighteen
18 of this code;

19 (G) A holder of a level two intermediate driver's license who
20 is under the age of eighteen years shall be prohibited from using
21 a wireless communication device while operating a motor vehicle,
22 unless the use of the wireless communication device is for
23 contacting a 9-1-1 system. A person violating the provisions of
24 this paragraph is guilty of a misdemeanor and, upon conviction
25 thereof, shall for the first offense be fined \$25; for a second
26 offense be fined \$50; and for a third or subsequent offense be

1 fined \$75.

2 (H) Upon the first conviction for a moving traffic violation
3 or a violation of paragraph (A), (B), (C), (D) or (G), subdivision
4 (1), subsection (d) of this section of the terms and conditions of
5 a level two intermediate driver's license, the licensee shall
6 enroll in an approved driver improvement program unless a greater
7 penalty is required by this section or by any other provision of
8 this code; and

9 At the discretion of the commissioner, completion of an
10 approved driver improvement program may be used to negate the
11 effect of a minor traffic violation as defined by the commissioner
12 against the one year conviction-free driving criteria for early
13 eligibility for a level three driver's license and may also negate
14 the effect of one minor traffic violation for purposes of avoiding
15 a second conviction under paragraph (I) of this subdivision; and

16 (I) Upon the second conviction for a moving traffic violation
17 or a violation of the terms and conditions of the level two
18 intermediate driver's license, the licensee's privilege to operate
19 a motor vehicle shall be revoked or suspended for the applicable
20 statutory period or until the licensee's eighteenth birthday,
21 whichever is longer unless a greater penalty is required by this
22 section or any other provision of this code. Any person whose
23 driver's license has been revoked as a level two intermediate
24 driver, upon reaching the age of eighteen years and if otherwise
25 eligible may reapply for an instruction permit, then a driver's
26 license in accordance with the provisions of sections five, six and

1 seven of this article.

2 (e) Level three, full Class E license.--The level three
3 license is valid until thirty days after the date the licensee
4 attains his or her twenty-first birthday. Unless otherwise
5 provided in this section or any other section of this code, the
6 holder of a level three full Class E license is subject to the same
7 terms and conditions as the holder of a regular Class E driver's
8 license.

9 A level two intermediate licensee whose privilege to operate
10 a motor vehicle has not been suspended, revoked or otherwise
11 canceled and who meets all other requirements of the code may be
12 issued a level three full Class E license without further
13 examination or road skills testing if the licensee:

14 (1) Has reached the age of seventeen years; and

15 (A) Presents a completed application as prescribed by the
16 provisions of section six of this article;

17 (B) Has held the level two intermediate license conviction
18 free for the twelve-month period immediately preceding the date of
19 the application;

20 (C) Has completed any driver improvement program required
21 under paragraph (G), subdivision (2), subsection (d) of this
22 section; and

23 (D) Pays a fee of ~~\$2.50~~ \$6.50 for each year the license is
24 valid. An additional fee of \$.50 shall be collected to be
25 deposited in the Combined Voter Registration and Driver's Licensing
26 Fund established in section twelve, article two, chapter three of

1 this code;

2 (E) Presents a driver's eligibility certificate or otherwise
3 shows compliance with the provisions of section eleven, article
4 eight, chapter eighteen of this code; or

5 (2) Reaches the age of eighteen years; and

6 (A) Presents a completed application as prescribed by the
7 provisions of section six of this article; and

8 (B) Pays a fee of ~~\$2.50~~ \$6.50 for each year the license is
9 valid. An additional fee of \$.50 shall be collected to be
10 deposited in the Combined Voter Registration and Driver's Licensing
11 Fund established in section twelve, article two, chapter three of
12 this code.

13 (f) A person violating the provisions of the terms and
14 conditions of a level one or level two intermediate driver's
15 license is guilty of a misdemeanor and, upon conviction thereof,
16 shall for the first offense be fined \$25; for a second offense be
17 fined \$50; and for a third or subsequent offense be fined \$75.

18 **§17B-2-5. Qualifications, issuance and fee for instruction permits.**

19 (a) Any person who is at least fifteen years of age may apply
20 to the division for an instruction permit. However, any person who
21 has not attained the age of eighteen shall comply with the
22 provisions of section three-a of this article. The division may,
23 in its discretion, after the applicant has successfully passed all
24 parts of the examination other than the road skills test, issue to
25 the applicant an instruction permit which entitles the applicant
26 while having the permit in his or her immediate possession to drive

1 a motor vehicle upon the public highways when accompanied by a
2 licensed driver of at least twenty-one years of age, a driver's
3 education or driving school instructor that is acting in an
4 official capacity as an instructor, who is alert and unimpaired or
5 a certified division license examiner acting in an official
6 capacity as an examiner, who is occupying a seat beside the driver.

7 (1) Any instruction permit issued to a person under the age of
8 eighteen years shall be issued in accordance with the provisions of
9 section three-a of this article.

10 (2) Any permit issued to a person who has reached the age of
11 eighteen years is valid for a period of ninety days. The fee for
12 the instruction permit is ~~five dollars~~ \$5.

13 (b) Any person sixteen years of age or older may apply to the
14 division for a motorcycle instruction permit. Any person under the
15 age of eighteen must have first completed the requirements for a
16 level two intermediate driver's license or a Class E driver's
17 license before being eligible for a motorcycle instruction permit.

18 The division may, in its discretion, after the applicant has
19 successfully passed all parts of the motorcycle examination other
20 than the driving test, and presented documentation of compliance
21 with the provisions of section eleven, article eight, chapter
22 eighteen of this code, if applicable, issue to the applicant an
23 instruction permit which entitles the applicant while having the
24 permit in his or her immediate possession to drive a motorcycle
25 upon the public streets or highways for a period of ninety days,
26 during the daylight hours between sunrise and sunset only. No

1 holder of a motorcycle instruction permit shall operate a
2 motorcycle while carrying any passenger on the vehicle.

3 A motorcycle instruction permit is not renewable, but a
4 qualified applicant may apply for a new permit. The fee for a
5 motorcycle instruction permit is ~~five dollars~~ \$5, which shall be
6 paid into a special fund in the state treasury known as the motor
7 vehicle fees fund.

8 **§17B-2-6. Application for license or instruction permit; fee to**
9 **accompany application.**

10 (a) Every application for an instruction permit or for a
11 driver's license shall be made upon a form furnished by the
12 division. Every application shall be accompanied by the proper fee
13 and payment of the fee shall entitle an applicant under the age of
14 eighteen to ~~not more than two attempts~~ one attempt at the written
15 test or ~~not more than three attempts to pass~~ one attempt at the
16 road skills test. An applicant age eighteen years or older is
17 entitled to ~~not more than two attempts~~ one attempt at the written
18 test or ~~not more than three attempts to pass~~ one attempt at the
19 road skills test ~~within a period of ninety days from the date of~~
20 ~~issuance of the instruction permit.~~ per payment of the proper fee.

21 An applicant who fails either the written test or the road skills
22 test may not be tested twice within a period of one week. An
23 instruction permit holder is eligible for additional attempts at
24 passing the written test or road skills test upon payment of a fee
25 of \$5 for each attempt.

1 (b) Any applicant who has not been previously licensed must
2 hold an instruction permit for a minimum of thirty days. For the
3 purposes of this section, the term "previously licensed" means an
4 applicant who has obtained at least a level one graduated license
5 or junior driver's license issued under the provisions of this
6 article or has obtained an equal or greater level of licensure if
7 previously licensed in another state.

8 (c) Every said application shall state the full legal name,
9 date of birth, sex, and residence address of the applicant and
10 briefly describe the applicant and shall state whether the
11 applicant has theretofore been a licensed driver and, if so, when,
12 and by what state or country and whether any such license has ever
13 been suspended or revoked within the five years next preceding the
14 date of application, or whether an application has ever been
15 refused and, if so, the date of and reason for the suspension,
16 revocation or refusal, whether the applicant desires a notation on
17 the driver's license indicating that the applicant is an organ
18 donor, in accordance with article one-b of this chapter, a
19 diabetic, deaf, or hard of hearing, or has any other handicap or
20 disability or is an honorably discharged veteran of any branch of
21 the armed forces of the United States and such other pertinent
22 information as the commissioner may require.

23 **§17B-2-8. Issuance and contents of licenses; fees.**

24 (a) The division shall, upon payment of the required fee,
25 issue to every applicant qualifying therefor a driver's license,
26 which shall indicate the type or general class or classes of

1 vehicle or vehicles the licensee may operate in accordance with
2 this chapter or chapter seventeen-e of this code, or
3 motorcycle-only license. Each license shall contain a coded number
4 assigned to the licensee, the full legal name, date of birth,
5 residence address, a brief description and a color photograph of
6 the licensee and either a facsimile of the signature of the
7 licensee or a space upon which the signature of the licensee shall
8 be written with pen and ink immediately upon receipt of the
9 license. No license is valid until it has been so signed by the
10 licensee.

11 (b) A driver's license which is valid for operation of a
12 motorcycle shall contain a motorcycle endorsement.

13 (c) The division shall use such process or processes in the
14 issuance of licenses that will, insofar as possible, prevent any
15 alteration, counterfeiting, duplication, reproduction, forging or
16 modification of, or the superimposition of a photograph on, the
17 license.

18 (d) The fee for the issuance of a Class E driver's license is
19 ~~two dollars and fifty cents~~ \$6.50 per year for each year the
20 license is issued to be valid. The fee for issuance of a Class D
21 driver's license is six dollars and twenty-five cents per year for
22 each year the license is issued to be valid. An additional fee of
23 fifty cents shall be collected from the applicant at the time of
24 original issuance or each renewal and the additional fee shall be
25 deposited in the "combined voter registration and driver's
26 licensing fund," established pursuant to the provisions of section

1 twelve, article two, chapter three of this code. The additional
2 fee for adding a motorcycle endorsement to a driver's license is
3 one dollar per year for each year the license is issued.

4 (e) The fee for issuance of a motorcycle-only license is ~~two~~
5 ~~dollars and fifty cents~~ \$6.50 for each year for which the
6 motorcycle license is to be valid. The fees for the motorcycle
7 endorsement or motorcycle-only license shall be paid into a special
8 fund in the State Treasury known as the Motorcycle Safety Fund as
9 established in section seven, article one-d of this chapter.

10 (f) The fee for the issuance of either the level one or level
11 two graduated driver's license as prescribed in section three-a of
12 this article is ~~five dollars~~ \$5.

13 (g) The division may use an address on the face of the license
14 other than the applicant's address of residence if:

15 (1) The applicant has a physical address or location that is
16 not recognized by the post office for the purpose of receiving
17 mail;

18 (2) The applicant is enrolled in a state address
19 confidentiality program or the alcohol test and lock program;

20 (3) The applicant's address is entitled to be suppressed under
21 a state or federal law or suppressed by a court order; or

22 (4) At the discretion of the commissioner, the applicant's
23 address may be suppressed to provide security for classes of
24 applicants such as law-enforcement officials, protected witnesses
25 and members of the state and federal judicial systems.

26 **§17B-2-11. Duplicate permits and licenses.**

1 In the event that an instruction permit or driver's license
2 issued under the provisions of this chapter is lost or destroyed,
3 or if the information contained on the license has changed, the
4 person to whom the permit or license was issued may upon making
5 proper application and upon payment of a fee of ~~five dollars~~ \$15
6 obtain a duplicate thereof upon furnishing proof satisfactory to
7 the division that the permit or license has been lost or destroyed.

8 **CHAPTER 17D. MOTOR VEHICLE SAFETY RESPONSIBILITY LAW.**

9 **ARTICLE 2. ADMINISTRATION OF LAW.**

10 **§17D-2-2. Commissioner to furnish abstract of operating record;**
11 **fee for abstract.**

12 The commissioner shall upon request and subject to the
13 provisions of article two-a, chapter seventeen-a of this code,
14 furnish any person a certified abstract of the operating record of
15 any person subject to the provisions of this chapter, and if there
16 is no record of any conviction of the person of a violation of any
17 law relating to the operation of a motor vehicle or of any injury
18 or damage caused by the person, the commissioner shall so certify.
19 The commissioner shall collect ~~five dollars~~ \$10 for each abstract.