



State of West Virginia
Earl Ray Tomblin
Governor

Office of the Governor
State Capitol
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Charleston, WV 25305

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www.wvgov.org

March 23, 2011

VIA HAND DELIVERY

The Honorable Natalie E. Tennant
West Virginia Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Ms. Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Senate Bill No. 608.

I must object to this Bill because the proposed amendment to W. Va. Code § 17D-2-2 is unconstitutional. Specifically, the amendment provides that an auto insurer domiciled in the State of West Virginia shall pay no more than \$10 for each abstract, including any administrative fee arising from the transaction, but allows higher amounts to be charged to out-of-state insurers. This language is facially discriminatory and thus violates the dormant commerce clause of the Constitution of the United States. The Bill's provision, under established jurisprudence, is unconstitutional because the state cannot justify the discrimination as serving a compelling state purpose in a least restrictive way.

Unfortunately, because the Bill contains an unconstitutional provision in W. Va. Code § 17D-2-2, I must veto Enrolled Senate Bill No. 608.

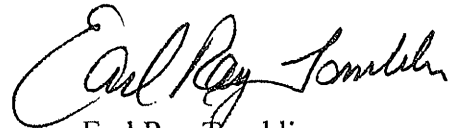
Even beyond the unconstitutional provisions of this legislation, I am concerned about the timing and amount of the proposed fee increases contemplated in Enrolled Senate Bill No. 608. Our people are hurting and our unemployment rates are still too high. Although we are seeing economic growth, we are coming out of one of the worst recessions in the history of our country.

I am committed to improving the quality of roads in our State. I will be working with our legislative leaders to come up with a plan to address the conditions of our roads.

OFFICE OF THE GOVERNOR

In vetoing this legislation, I also am comforted by the fact that our economic recovery – to date – has improved the fiscal condition of our State Road Fund. In fact, total year-to-date State collections are \$32 million higher than last year. Under current law, Motor Vehicle Sales Tax receipts have increased more than 20% due to higher vehicle sales this year. A growing economy has also contributed to a 3.5% rise in Motor Fuel Tax collections and a 4.6% rise in license and registration fees. This additional money – coming in under current law – will provide significant benefits and offset the need for a fee increase at this time.

Very truly yours,

A handwritten signature in cursive script, reading "Earl Ray Tomblin". The signature is written in black ink and is positioned above the printed name and title.

Earl Ray Tomblin
Governor

cc: The Honorable Jeffrey V. Kessler
Acting President, Senate of West Virginia
The Honorable Richard Thompson
Speaker, West Virginia House of Delegates



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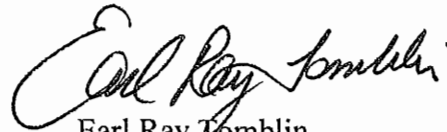
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Earl Ray Tomblin
Governor

cc: The Honorable Richard Thompson
Speaker, House of Delegates
The Honorable Natalie E. Tennant
Secretary of State