

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 610

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[Introduced February 16, 2016;

Referred to Committee on Finance.]

1 A BILL to amend and reenact §11-14C-5 of the Code of West Virginia, 1931, as amended; to
2 amend and reenact §11-15-3 and §11-15-3c of said code; to amend said code by adding
3 thereto a new section, designated §11-15-18c; to amend and reenact §17-3-1 of said
4 code; to amend and reenact §17A-2-13 of said code; to amend and reenact §17A-3-4 of
5 said code; to amend and reenact §17A-4-1 and §17A-4-10 of said code; to amend and
6 reenact §17A-4A-10 of said code; to amend and reenact §17A-10-1, §17A-10-3, §17A-10-
7 10 and §17A-10-11 of said code; to amend said code by adding thereto a new section,
8 designated §17A-10-3c; to amend and reenact §17B-2-1, §17B-2-3a, §17B-2-8 and §17B-
9 2-11 of said code; and to amend and reenact §17D-2-2 of said code, all relating to
10 generating and maintaining revenue for maintenance of roads and infrastructure;
11 increasing flat tax rate portion for diesel fuel; increasing general consumers sales and
12 service tax; dedicating portion of general consumers sales and service tax imposed to
13 State Road Fund; providing that general consumers sales and service tax on motor vehicle
14 repairs, parts and services be deposited into State Road Fund; increasing and adding
15 certain fees related to motor vehicles, registration, titles, license plates, decals, records,
16 licenses and identification cards; creating new registration class for alternative fuel
17 vehicles; and changing privilege tax rate and privilege tax calculation on motor vehicles.

Be it enacted by the Legislature of West Virginia:

1 That §11-14C-5 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted; that §11-15-3 and §11-15-3c of said code be amended and reenacted; that said code
3 be amended by adding thereto a new section, designated §11-15-18c; that §17-3-1 of said code
4 be amended and reenacted; that §17A-2-13 of said code be amended and reenacted; that §17A-
5 3-4 of said code be amended and reenacted; that §17A-4-1 and §17A-4-10 of said code be
6 amended and reenacted; that §17A-4A-10 of said code be amended and reenacted; that §17A-
7 10-1, §17A-10-3, §17A-10-10 and §17A-10-11 of said code be amended and reenacted; that said
8 code be amended by adding thereto a new section, designated 17A-10-3c; that §17B-2-1, §17B-

9 2-3a, §17B-2-8 and §17B-2-11 of said code be amended and reenacted; and that §17D-2-2 of
 10 said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 14C. MOTOR FUEL EXCISE TAX.

§11-14C-5. Taxes levied; rate.

1 (a) There is hereby levied on all motor fuel an excise tax composed of a flat rate equal to
 2 ~~\$.205 per invoiced gallon and, on alternative fuel, on each gallon equivalent, plus a variable~~
 3 ~~component comprised of~~ per gallon or gallon equivalent, plus a variable component, all
 4 determined as follows:

5 (1) On motor fuel other than diesel fuel, the flat rate portion shall be \$.205 per invoiced
 6 gallon and, on alternative fuel, on each gallon equivalent. On diesel fuel, the flat rate shall be
 7 \$.205 per invoiced gallon through June 30, 2016. Beginning July 1, 2016, the flat tax rate portion
 8 for diesel fuel imposed in this section shall be \$.255 per invoiced gallon.

9 (2) Determination of variable component. –

10 (4) (A) On motor fuel other than alternative fuel, either the tax imposed by section
 11 eighteen-b, article fifteen of this chapter or the tax imposed under section thirteen-a, article fifteen-
 12 a of this chapter, as applicable: *Provided*, That the motor fuel excise tax shall take effect January
 13 1, 2004: *Provided, however*, That the variable component shall be equal to five percent of the
 14 average wholesale price of the motor fuel: *Provided further*, That the average wholesale price
 15 shall be no less than \$.97 per invoiced gallon and is computed as hereinafter prescribed in this
 16 section: *And provided further*, That on and after January 1, 2010, the average wholesale price
 17 shall be no less than \$2.34 per invoiced gallon and is computed as hereinafter prescribed in this
 18 section; and

19 (2) (B) On alternative fuel, either the tax imposed by section eighteen-b, article fifteen of
 20 this chapter or the tax imposed under section thirteen-a, article fifteen-a of this chapter, as

21 applicable. The tax on alternative fuel takes effect on January 1, 2014, with a variable component
22 equal to five percent of the average wholesale price of the alternative fuel.

23 (b) *Determination of average wholesale price.* –

24 (1) To simplify determining the average wholesale price of all motor fuel, the Tax
25 Commissioner shall, effective with the period beginning the first day of the month of the effective
26 date of the tax and each January 1 thereafter, determine the average wholesale price of motor
27 fuel for each annual period on the basis of sales data gathered for the preceding period of July 1
28 through October 31. Notification of the average wholesale price of motor fuel shall be given by
29 the Tax Commissioner at least thirty days in advance of each January 1 by filing notice of the
30 average wholesale price in the state Register and by other means as the Tax Commissioner
31 considers reasonable.

32 (2) The “average wholesale price” means the single, statewide average per gallon
33 wholesale price, rounded to the third decimal (thousandth of a cent), exclusive of state and federal
34 excise taxes on each gallon of motor fuel or on each gallon equivalent of alternative fuel as
35 determined by the Tax Commissioner from information furnished by suppliers, importers and
36 distributors of motor fuel and alternative-fuel providers, alternative-fuel bulk end users and
37 retailers of alternative fuel in this state, or other information regarding wholesale selling prices as
38 the Tax Commissioner may gather or a combination of information. In no event shall the average
39 wholesale price be determined to be less than \$.97 per gallon of motor fuel. For calendar year
40 2009, the average wholesale price of motor fuel shall not exceed the average wholesale price of
41 motor fuel for calendar year 2008 as determined pursuant to the notice filed by the Tax
42 Commissioner with the Secretary of State on November 21, 2007, and published in the state
43 Register on November 30, 2007. On and after January 1, 2010, in no event shall the average
44 wholesale price be determined to be less than \$2.34 per gallon of motor fuel. On and after January
45 1, 2011, the average wholesale price shall not vary by more than ten percent from the average
46 wholesale price of motor fuel as determined by the Tax Commissioner for the previous calendar

47 year. Any limitation on the average wholesale price of motor fuel contained in this subsection shall
48 not be applicable to alternative fuel.

49 (3) All actions of the Tax Commissioner in acquiring data necessary to establish and
50 determine the average wholesale price of motor fuel, in providing notification of his or her
51 determination prior to the effective date of a change in rate, and in establishing and determining
52 the average wholesale price of motor fuel may be made by the Tax Commissioner without
53 compliance with the provisions of article three, chapter twenty-nine-a of this code.

54 (4) In an administrative or court proceeding brought to challenge the average wholesale
55 price of motor fuel as determined by the Tax Commissioner, his or her determination is presumed
56 to be correct and shall not be set aside unless it is clearly erroneous.

57 (c) There is hereby levied a floorstocks tax on motor fuel held in storage outside the bulk
58 transfer/terminal system as of the close of the business day preceding January 1, 2004, and upon
59 which the tax levied by this section has not been paid. For the purposes of this section, "close of
60 the business day" means the time at which the last transaction has occurred for that day. The
61 floorstocks tax is payable by the person in possession of the motor fuel on January 1, 2004. The
62 amount of the floorstocks tax on motor fuel is equal to the sum of the tax rate specified in
63 subsection (a) of this section multiplied by the gallons in storage as of the close of the business
64 day preceding January 1, 2004.

65 (1) Persons in possession of taxable motor fuel in storage outside the bulk
66 transfer/terminal system as of the close of the business day preceding January 1, 2004, shall:

67 (A) Take an inventory at the close of the business day preceding January 1, 2004, to
68 determine the gallons in storage for purposes of determining the floorstocks tax;

69 (B) Report no later than January 31, 2004, the gallons on forms provided by the
70 commissioner; and

71 (C) Remit the tax levied under this section no later than June 1, 2004.

72 (2) In the event the tax due is paid to the commissioner on or before January 31, 2004,

73 the person remitting the tax may deduct from their remittance five percent of the tax liability due.

74 (3) In the event the tax due is paid to the commissioner after June 1, 2004, the person
75 remitting the tax shall pay, in addition to the tax, a penalty in the amount of five percent of the tax
76 liability due.

77 (4) In determining the amount of floorstocks tax due under this section, the amount of
78 motor fuel in dead storage may be excluded. There are two methods for calculating the amount
79 of motor fuel in dead storage:

80 (A) If the tank has a capacity of less than ten thousand gallons, the amount of motor fuel
81 in dead storage is two hundred gallons and if the tank has a capacity of ten thousand gallons or
82 more, the amount of motor fuel in dead storage is four hundred gallons; or

83 (B) Use the manufacturer's conversion table for the tank after measuring the number of
84 inches between the bottom of the tank and the bottom of the mouth of the drainpipe: *Provided,*
85 That the distance between the bottom of the tank and the bottom of the mouth of the draw pipe is
86 presumed to be six inches.

87 (d) Every licensee who, on the effective date of any rate change, has in inventory any
88 motor fuel upon which the tax or any portion thereof has been previously paid shall take a physical
89 inventory and file a report thereof with the commissioner, in the format as required by the
90 commissioner, within thirty days after the effective date of the rate change, and shall pay to the
91 commissioner at the time of filing the report any additional tax due under the increased rate.

92 (e) The Tax Commissioner shall determine by January 1, 2014, the gasoline gallon
93 equivalent for each alternative fuel by filing a notice of the gasoline gallon equivalent in the state
94 Register and by other means that the Tax Commissioner considers reasonable. The Tax
95 Commissioner may redetermine the gasoline gallon equivalent for each alternative fuel by filing a
96 notice of the gasoline gallon equivalent in the state Register at least thirty days in advance of
97 January 1 for the next succeeding tax year. For purposes of this notice, the Tax Commissioner
98 may adopt or incorporate by reference provisions of the National Institute of Standards and

99 Technology, United States Department of Commerce, the Internal Revenue Code, United States
 100 Treasury Regulations, the Internal Revenue Service publications or guidelines or other
 101 publications or guidelines which may be useful in determining, setting or describing the gasoline
 102 gallon equivalent for each alternative fuel used as motor fuel.

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-3. Amount of tax; allocation of tax and transfers.

1 (a) *Vendor to collect.* -- For the privilege of selling tangible personal property or custom
 2 software and for the privilege of furnishing certain selected services defined in sections two and
 3 eight of this article, the vendor shall collect from the purchaser the tax as provided under this
 4 article and article fifteen-b of this chapter, and shall pay the amount of tax to the Tax
 5 Commissioner in accordance with the provisions of this article or article fifteen-b of this chapter.

6 (b) *Amount of tax.* -- The general consumer sales and service tax imposed by this article
 7 shall be at the rate of 6¢ on the dollar of sales or services, excluding gasoline and special fuel
 8 sales, which remain taxable at the rate of 5¢ on the dollar of sales. Beginning January 1, 2017,
 9 the general consumer sales and service tax imposed by this article shall be at the rate of 6.5¢ on
 10 the dollar of sales or services.

11 (c) *Calculation tax on fractional parts of a dollar until January 1, 2004.* -- There shall be no
 12 tax on sales where the monetary consideration is 5¢ or less. The amount of the tax shall be
 13 computed as follows:

14 (1) On each sale, where the monetary consideration is from 6¢ to 16¢, both inclusive, 1¢.

15 (2) On each sale, where the monetary consideration is from 17¢ to 33¢, both inclusive, 2¢.

16 (3) On each sale, where the monetary consideration is from 34¢ to 50¢, both inclusive, 3¢.

17 (4) On each sale, where the monetary consideration is from 51¢ to 67¢, both inclusive, 4¢.

18 (5) On each sale, where the monetary consideration is from 68¢ to 84¢, both inclusive, 5¢.

19 (6) On each sale, where the monetary consideration is from 85¢ to \$1, both inclusive, 6¢.

20 (7) If the sale price is in excess of \$1, 6¢ on each whole dollar of sale price, and upon any

21 fractional part of a dollar in excess of whole dollars as follows: 1¢ on the fractional part of the
22 dollar if less than 17¢; 2¢ on the fractional part of the dollar if in excess of 16¢ but less than 34¢;
23 3¢ on the fractional part of the dollar if in excess of 33¢ but less than 51¢; 4¢ on the fractional
24 part of the dollar if in excess of 50¢ but less than 68¢; 5¢ on the fractional part of the dollar if in
25 excess of 67¢ but less than 85¢; and 6¢ on the fractional part of the dollar if in excess of 84¢. For
26 example, the tax on sales from \$1.01 to \$1.16, both inclusive, 7¢; on sales from \$1.17 to \$1.33,
27 both inclusive, 8¢; on sales from \$1.34 to \$1.50, both inclusive, 9¢; on sales from \$1.51 to \$1.67,
28 both inclusive, 10¢; on sales from \$1.68 to \$1.84, both inclusive, 11¢ and on sales from \$1.85 to
29 \$2, both inclusive, 12¢: *Provided*, That beginning January 1, 2004, tax due under this article shall
30 be calculated as provided in subsection (d) of this subsection and this subsection (c) does not
31 apply to sales made after December 31, 2003.

32 (d) *Calculation of tax on fractional parts of a dollar after December 31, 2003.* -- Beginning
33 January 1, 2004, the tax computation under subsection (b) of this section, and any amendments
34 thereto, shall be carried to the third decimal place, and the tax rounded up to the next whole cent
35 whenever the third decimal place is greater than four and rounded down to the lower whole cent
36 whenever the third decimal place is four or less. The vendor may elect to compute the tax due on
37 a transaction on a per item basis or on an invoice basis provided the method used is consistently
38 used during the reporting period.

39 (e) *No aggregation of separate sales transactions, exception for coin-operated devices.* -
40 - Separate sales, such as daily or weekly deliveries, shall not be aggregated for the purpose of
41 computation of the tax even though the sales are aggregated in the billing or payment therefor.
42 Notwithstanding any other provision of this article, coin-operated amusement and vending
43 machine sales shall be aggregated for the purpose of computation of this tax.

44 (f) *Rate of tax on certain mobile homes.* -- Notwithstanding any provision of this article to
45 the contrary, after December 31, 2003, the tax levied on sales of mobile homes to be used by the
46 owner thereof as his or her principal year-round residence and dwelling shall be an amount equal

47 to six percent of fifty percent of the sales price.

48 (g) *Construction; custom software.* -- After December 31, 2003, whenever the words
49 “tangible personal property” or “property” appear in this article, the same shall also include the
50 words “custom software”.

51 (h) *Computation of tax on sales of gasoline and special fuel.* -- The method of computation
52 of tax provided in this section does not apply to sales of gasoline and special fuel.

53 (i) Dedication of tax to the State Road Fund. – 0.5¢ of the tax imposed and collected under
54 this section, after deducting the amount of any refunds lawfully paid, shall be deposited in the
55 State Road Fund in the State Treasurer’s office and used only for the purpose of construction,
56 reconstruction, maintenance and repair of public highways and payment of principal and interest
57 on state bonds issued for highway purposes.

**§11-15-3c. Imposition of consumers sales tax on motor vehicle sales; rate of tax; use of
motor vehicle purchased out of state; definition of sale; definition of motor vehicle;
exemptions; collection of tax by Division of Motor Vehicles; dedication of tax to
highways; legislative and emergency rules.**

1 (a) Notwithstanding any provision of this article or article fifteen-a of this chapter to the
2 contrary, beginning on July 1, 2008, all motor vehicle sales to West Virginia residents shall be
3 subject to the consumers sales tax imposed by this article.

4 (b) *Rate of tax on motor vehicles.* -- Notwithstanding any provision of this article or article
5 fifteen-a of this chapter to the contrary, the rate of tax on the sale and use of a motor vehicle shall
6 be ~~five~~ four percent of its sale price, as defined in section two, article fifteen-b of this chapter:
7 ~~Provided, That so much of the sale price or consideration as is represented by the exchange of~~
8 ~~other vehicles on which the tax imposed by this section or section four, article three, chapter~~
9 ~~seventeen-a of this code has been paid by the purchaser shall be deducted from the total actual~~
10 ~~sale price paid for the motor vehicle, whether the motor vehicle be new or used.~~

11 (c) *Motor vehicles purchased out of state.* -- Notwithstanding this article or article fifteen-

12 a to the contrary, the tax imposed by this section shall apply to all motor vehicles, used as defined
13 by section one, article fifteen-a of this chapter, within this state, regardless of whether the vehicle
14 was purchased in a state other than West Virginia.

15 (d) *Definition of sale.* -- Notwithstanding any provision of this article or article fifteen-a of
16 this chapter to the contrary, for purposes of this section, "sale", "sales" or "selling" means any
17 transfer or lease of the possession or ownership of a motor vehicle for consideration, including
18 isolated transactions between individuals not being made in the ordinary course of repeated and
19 successive business and also including casual and occasional sales between individuals not
20 conducted in a repeated manner or in the ordinary course of repetitive and successive
21 transactions.

22 (e) *Definition of motor vehicle.* -- For purposes of this section, "motor vehicle" means every
23 propellable device in or upon which any person or property is or may be transported or drawn
24 upon a highway including, but not limited to: Automobiles; buses; motor homes; motorcycles;
25 motorboats; all-terrain vehicles; snowmobiles; low-speed vehicles; trucks, truck tractors and road
26 tractors having a weight of less than fifty-five thousand pounds; trailers, semitrailers, full trailers,
27 pole trailers and converter gear having a gross weight of less than two thousand pounds; and
28 motorboat trailers, fold-down camping trailers, traveling trailers, house trailers and motor homes;
29 except that the term "motor vehicle" does not include: Modular homes, manufactured homes,
30 mobile homes, similar nonmotive propelled vehicles susceptible of being moved upon the
31 highways but primarily designed for habitation and occupancy; devices operated regularly for the
32 transportation of persons for compensation under a certificate of convenience and necessity or
33 contract carrier permit issued by the Public Service Commission; mobile equipment as defined in
34 section one, article one, chapter seventeen-a of this code; special mobile equipment as defined
35 in section one, article one, chapter seventeen-a of this code; trucks, truck tractors and road
36 tractors having a gross weight of fifty-five thousand pounds or more; trailers, semitrailers, full
37 trailers, pole trailers and converter gear having weight of two thousand pounds or greater:

38 *Provided*, That notwithstanding the provisions of section nine, article fifteen, chapter eleven of
39 this code, the exemption from tax under this section for mobile equipment as defined in section
40 one, article one, chapter seventeen-a of this code; special mobile equipment defined in section
41 one, article one, chapter seventeen-a of this code; Class B trucks, truck tractors and road tractors
42 registered at a gross weight of fifty-five thousand pounds or more; and Class C trailers,
43 semitrailers, full trailers, pole trailers and converter gear having weight of two thousand pounds
44 or greater does not subject the sale or purchase of the vehicle to the consumer sales and service
45 tax imposed by section three of this article.

46 (f) *Exemptions.* -- Notwithstanding any other provision of this code to the contrary, the tax
47 imposed by this section shall not be subject to any exemption in this code other than the following:

48 (1) The tax imposed by this section does not apply to any passenger vehicle offered for
49 rent in the normal course of business by a daily passenger rental car business as licensed under
50 the provisions of article six-d, chapter seventeen-a of this code. For purposes of this section, a
51 daily passenger car means a motor vehicle having a gross weight of eight thousand pounds or
52 less and is registered in this state or any other state. In lieu of the tax imposed by this section,
53 there is hereby imposed a tax of not less than \$1 nor more than \$1.50 for each day or part of the
54 rental period. The Commissioner of Motor Vehicles shall propose an emergency rule in
55 accordance with the provisions of article three, chapter twenty-nine-a of this code to establish this
56 tax.

57 (2) The tax imposed by this section does not apply where the motor vehicle has been
58 acquired by a corporation, partnership or limited liability company from another corporation,
59 partnership or limited liability company that is a member of the same controlled group and the
60 entity transferring the motor vehicle has previously paid the tax on that motor vehicle imposed by
61 this section. For the purposes of this section, control means ownership, directly or indirectly, of
62 stock or equity interests possessing fifty percent or more of the total combined voting power of all
63 classes of the stock of a corporation or equity interests of a partnership or limited liability company

64 entitled to vote or ownership, directly or indirectly, of stock or equity interests possessing fifty
65 percent or more of the value of the corporation, partnership or limited liability company.

66 (3) The tax imposed by this section does not apply where motor vehicle has been acquired
67 by a senior citizen service organization which is exempt from the payment of income taxes under
68 the United States Internal Revenue Code, Title 26 U.S.C. §501(c)(3) and which is recognized to
69 be a bona fide senior citizen service organization by the Bureau of Senior Services existing under
70 the provisions of article five, chapter sixteen of this code.

71 (4) The tax imposed by this section does not apply to any active duty military personnel
72 stationed outside of West Virginia who acquires a motor vehicle by sale within nine months from
73 the date the person returns to this state.

74 (5) The tax imposed by this section does not apply to motor vehicles acquired by registered
75 dealers of this state for resale only.

76 (6) The tax imposed by this section does not apply to motor vehicles acquired by this state
77 or any political subdivision thereof or by any volunteer fire department or duly chartered rescue
78 or ambulance squad organized and incorporated under the laws of this state as a nonprofit
79 corporation for protection of life or property.

80 (7) The tax imposed by this section does not apply to motor vehicles acquired by an urban
81 mass transit authority, as defined in article twenty-seven, chapter eight of this code, or a nonprofit
82 entity exempt from federal and state income tax under the Internal Revenue Code for the purpose
83 of providing mass transportation to the public at large or designed for the transportation of persons
84 and being operated for the transportation of persons in the public interest.

85 (8) The tax imposed by this section does not apply to the registration of a vehicle owned
86 and titled in the name of a resident of this state if the applicant:

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

89 (B) Presents evidence as the Commissioner of Motor Vehicles may require of having titled

90 the vehicle in the applicant's previous state of residence;

91 (C) Has relocated to this state and can present such evidence as the Commissioner of
92 Motor Vehicles may require to show bona fide residency in this state; and

93 (D) Makes application to the Division of Motor Vehicles for a title and registration and pays
94 all other fees required by chapter seventeen-a of this code within thirty days of establishing
95 residency in this state as prescribed in subsection (a), section one-a of this article.

96 (9) On and after January 1, 2009, the tax imposed by this section does not apply to Class
97 B trucks, truck tractors and road tractors registered at a gross weight of fifty-five thousand pounds
98 or more or to Class C trailers, semitrailers, full trailers, pole trailers and converter gear having a
99 weight of two thousand pounds or greater. If an owner of a vehicle has previously titled the vehicle
100 at a declared gross weight of fifty-five thousand pounds or more and the title was issued without
101 the payment of the tax imposed by this section, then before the owner may obtain registration for
102 the vehicle at a gross weight less than fifty-five thousand pounds, the owner shall surrender to
103 the commissioner the exempted registration, the exempted certificate of title and pay the tax
104 imposed by this section based upon the current market value of the vehicle.

105 (10) The tax imposed by this section does not apply to vehicles leased by residents of
106 West Virginia. On or after January 1, 2009, a tax is imposed upon the monthly payments for the
107 lease of any motor vehicle leased under a written contract of lease by a resident of West Virginia
108 for a contractually specified continuous period of more than thirty days, which tax is equal to five
109 percent of the amount of the monthly payment, applied to each payment, and continuing for the
110 entire term of the initial lease period. The tax shall be remitted to the Division of Motor Vehicles
111 on a monthly basis by the lessor of the vehicle. Leases of thirty days or less are taxable under
112 the provisions of this article and article fifteen-a of this chapter without reference to this section.

113 (g) *Division of Motor Vehicles to collect.* -- Notwithstanding any provision of this article,
114 article fifteen-a and article ten of this chapter to the contrary, the Division of Motor Vehicles shall
115 collect the tax imposed by this section: *Provided*, That such tax is imposed upon the monthly

116 payments for the lease of any motor vehicle leased by a resident of West Virginia, which tax is
117 equal to five percent of the amount of the monthly payment, applied to each payment, and
118 continuing for the entire term of the initial lease period. The tax shall be remitted to the Division
119 of Motor Vehicles on a monthly basis by the lessor of the vehicle.

120 (h) *Dedication of tax to highways.* -- Notwithstanding any provision of this article or article
121 fifteen-a of this chapter to the contrary, all taxes collected pursuant to this section, after deducting
122 the amount of any refunds lawfully paid, shall be deposited in the State Road Fund in the State
123 Treasury and expended by the Commissioner of Highways for design, maintenance and
124 construction of roads in the state highway system.

125 (i) *Legislative rules; emergency rules.* -- Notwithstanding any provision of this article,
126 article fifteen-a and article ten of this chapter to the contrary, the Commissioner of Motor Vehicles
127 shall promulgate legislative rules explaining and implementing this section, which rules shall be
128 promulgated in accordance with the provisions of article three, chapter twenty-nine-a of this code
129 and should include a minimum taxable value and set forth instances when a vehicle is to be taxed
130 at fair market value rather than its purchase price. The authority to promulgate rules includes
131 authority to amend or repeal those rules. If proposed legislative rules for this section are filed in
132 the state Register before June 15, 2008, those rules may be promulgated as emergency
133 legislative rules as provided in article three, chapter twenty-nine-a of this code.

134 (j) Notwithstanding any other provision of this code, effective January 1, 2009, no
135 municipal sales or use tax or local sales or use tax or special downtown redevelopment district
136 excise tax or special district excise tax shall be imposed under article twenty-two, chapter seven
137 of this code or article thirteen, chapter eight of this code or article thirteen-b of said chapter or
138 article thirty-eight of said chapter or any other provision of this code, except this section, on sales
139 of motor vehicles as defined in this article or on any tangible personal property excepted or
140 exempted from tax under this section. Nothing in this subsection shall be construed to prevent
141 the application of the municipal business and occupation tax on motor vehicle retailers and leasing

142 companies.

§11-15-18c. Sales tax on motor vehicle repairs, parts and services paid to State Road Fund.

1 Notwithstanding any provision of this code to the contrary, all tax collected under the
 2 provisions of this section for motor vehicle repairs, parts and services, after deducting the amount
 3 of refunds lawfully paid, shall be deposited in the State Road Fund in the State Treasurer's office
 4 and used only for the purpose of construction, reconstruction, maintenance and repair of public
 5 highways and payment of principal and interest on state bonds issued for highway purposes.

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 3. STATE ROAD FUND.

§17-3-1. What constitutes fund; payments into fund; use of money in fund.

1 There shall be a State Road Fund, which shall consist of the proceeds of all state license
 2 taxes imposed upon automobiles or other motor or steam driven vehicles; the registration fees
 3 imposed upon all owners, chauffeurs, operators and dealers in automobiles or other motor driven
 4 vehicles; all sums of money which may be donated to ~~such~~ the fund; all proceeds derived from
 5 the sale of state bonds issued pursuant to any resolution or act of the Legislature carrying into
 6 effect the "Better Roads Amendment" to the Constitution of this state, adopted in November, 1964,
 7 except that the proceeds from the sale of these bonds shall be kept in a separate and distinct
 8 account in the State Road Fund; all proceeds from the sale of state bonds issued pursuant to any
 9 resolution or act of the Legislature carrying into effect the "Safe Roads Amendment of 1996" to
 10 the Constitution of this state, adopted in the November, 1996, except that the proceeds from the
 11 sale of these bonds shall be kept in a separate and distinct account in the State Road Fund; all
 12 moneys and funds appropriated to it by the Legislature; and all moneys allotted or appropriated
 13 by the federal government to this state for road construction and maintenance pursuant to any
 14 act of the Congress of the United States; the proceeds of all taxes imposed upon and collected

15 from any person, firm or corporation and of all taxes or charges imposed upon and collected from
 16 any county, district or municipality for the benefit of the fund; the proceeds of all judgments,
 17 decrees or awards recovered and collected from any person, firm or corporation for damages
 18 done to, or sustained by, any of the state roads or parts thereof; all moneys recovered or received
 19 by reason of the violation of any contract respecting the building, construction or maintenance of
 20 any state road; all penalties and forfeitures imposed, recovered or received by reason thereof;
 21 and any and all other moneys and funds appropriated to, imposed and collected for the benefit of
 22 ~~such~~ the fund, or collected by virtue of any statute and payable to such fund, including sales tax
 23 on motor vehicle repairs, parts and services as set out in section eighteen-c, article fifteen, chapter
 24 eleven of this code: *Provided*, That notwithstanding any provisions of this code to the contrary,
 25 50¢ of every license fee paid pursuant to the provisions of subdivision (2), subsection (a), section
 26 eight, article two, chapter seventeen-b of this code shall be paid to the special fund established
 27 pursuant to the provisions of subsection (a), section twelve, article two, chapter three of this code.

28 When any money is collected from any of the sources aforesaid, it shall be paid into the
 29 State Treasury by the officer whose duty it is to collect and account for the same, and credited to
 30 the State Road Fund, and shall be used only for the purposes named in this chapter, which are:
 31 (a) To pay the principal and interest due on all state bonds issued for the benefit of said fund, and
 32 set aside and appropriated for that purpose; (b) to pay the expenses of the administration of the
 33 road department; and (c) to pay the cost of maintenance, construction, reconstruction and
 34 improvement of all state roads.

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

ARTICLE 2. DIVISION OF MOTOR VEHICLES.

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

registration.

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

4 (b) The commissioner and such officers of the division as he or she may designate are
5 hereby authorized to prepare under the seal of the division and deliver upon request in
6 conformance with article two-a of this chapter a certified copy of any record of the division,
7 charging a fee of ~~one dollar~~ \$3 for each document so authenticated, in addition to any applicable
8 fee required by this code for issuance, modification or duplication of a title, registration, operator's
9 license, vehicle history, or driving record, and every such certified copy is admissible in any
10 proceeding in any court in like manner as the original thereof.

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

**ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF
CERTIFICATES OF TITLE.****§17A-3-4. Application for certificate of title; fees; abolishing privilege tax; prohibition of
issuance of certificate of title without compliance with consumer sales and service
tax provisions; exceptions.**

1 (a) Certificates of registration of any vehicle or registration plates for the vehicle, whether
2 original issues or duplicates, may not be issued or furnished by the Division of Motor Vehicles or
3 any other officer or agent charged with the duty, unless the applicant already has received, or at
4 the same time makes application for and is granted, an official certificate of title of the vehicle in
5 either an electronic or paper format. The application shall be upon a blank form to be furnished

6 by the Division of Motor Vehicles and shall contain a full description of the vehicle, which
7 description shall contain a manufacturer's serial or identification number or other number as
8 determined by the commissioner and any distinguishing marks, together with a statement of the
9 applicant's title and of any liens or encumbrances upon the vehicle, the names and addresses of
10 the holders of the liens and any other information as the Division of Motor Vehicles may require.
11 The application shall be signed and sworn to by the applicant. A duly certified copy of the division's
12 electronic record of a certificate of title is admissible in any civil, criminal or administrative
13 proceeding in this state as evidence of ownership.

14 (b) A tax is imposed upon the privilege of effecting the certification of title of each vehicle
15 in the amount equal to ~~five~~ four percent of the value of the motor vehicle at the time of the
16 certification, to be assessed as follows:

17 (1) If the vehicle is new, the actual purchase price or consideration to the purchaser of the
18 vehicle is the value of the vehicle. If the vehicle is a used or secondhand vehicle, the present
19 market value at time of transfer or purchase is the value of the vehicle for the purposes of this
20 section. ~~Provided, That so much of the purchase price or consideration as is represented by the~~
21 ~~exchange of other vehicles on which the tax imposed by this section has been paid by the~~
22 ~~purchaser shall be deducted from the total actual price or consideration paid for the vehicle,~~
23 ~~whether the vehicle be new or secondhand~~ If the vehicle is acquired through gift or by any manner
24 whatsoever, unless specifically exempted in this section, the present market value of the vehicle
25 at the time of the gift or transfer is the value of the vehicle for the purposes of this section.

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

32 (3) The Division of Motor Vehicles may issue a certificate of registration and title to an
33 applicant if the applicant provides sufficient proof to the Division of Motor Vehicles that the
34 applicant has paid the taxes and fees required by this section to a motor vehicle dealership that
35 has gone out of business or has filed bankruptcy proceedings in the United States bankruptcy
36 court and the taxes and fees so required to be paid by the applicant have not been sent to the
37 division by the motor vehicle dealership or have been impounded due to the bankruptcy
38 proceedings: *Provided*, That the applicant makes an affidavit of the same and assigns all rights
39 to claims for money the applicant may have against the motor vehicle dealership to the Division
40 of Motor Vehicles.

41 (4) The Division of Motor Vehicles shall issue a certificate of registration and title to an
42 applicant without payment of the tax imposed by this section if the applicant is a corporation,
43 partnership or limited liability company transferring the vehicle to another corporation, partnership
44 or limited liability company when the entities involved in the transfer are members of the same
45 controlled group and the transferring entity has previously paid the tax on the vehicle transferred.
46 For the purposes of this section, control means ownership, directly or indirectly, of stock or equity
47 interests possessing fifty percent or more of the total combined voting power of all classes of the
48 stock of a corporation or equity interests of a partnership or limited liability company entitled to
49 vote or ownership, directly or indirectly, of stock or equity interests possessing fifty percent or
50 more of the value of the corporation, partnership or limited liability company.

51 (5) The tax imposed by this section does not apply to vehicles to be registered as Class
52 H vehicles or Class M vehicles, as defined in section one, article ten of this chapter, which are
53 used or to be used in interstate commerce. Nor does the tax imposed by this section apply to the
54 titling of Class B vehicles registered at a gross weight of fifty-five thousand pounds or more, or to
55 the titling of Class C semitrailers, full trailers, pole trailers and converter gear: *Provided*, That if an
56 owner of a vehicle has previously titled the vehicle at a declared gross weight of fifty-five thousand
57 pounds or more and the title was issued without the payment of the tax imposed by this section,

58 then before the owner may obtain registration for the vehicle at a gross weight less than fifty-five
59 thousand pounds, the owner shall surrender to the commissioner the exempted registration, the
60 exempted certificate of title and pay the tax imposed by this section based upon the current market
61 value of the vehicle: *Provided, however,* That notwithstanding the provisions of section nine,
62 article fifteen, chapter eleven of this code, the exemption from tax under this section for Class B
63 vehicles in excess of fifty-five thousand pounds and Class C semitrailers, full trailers, pole trailers
64 and converter gear does not subject the sale or purchase of the vehicles to the consumers sales
65 and service tax.

66 (6) The tax imposed by this section does not apply to titling of vehicles leased by residents
67 of West Virginia. A tax is imposed upon the monthly payments for the lease of any motor vehicle
68 leased by a resident of West Virginia, which tax is equal to five percent of the amount of the
69 monthly payment, applied to each payment, and continuing for the entire term of the initial lease
70 period. The tax shall be remitted to the Division of Motor Vehicles on a monthly basis by the lessor
71 of the vehicle.

72 (7) The tax imposed by this section does not apply to titling of vehicles by a registered
73 dealer of this state for resale only, nor does the tax imposed by this section apply to titling of
74 vehicles by this state or any political subdivision thereof, or by any volunteer fire department or
75 duly chartered rescue or ambulance squad organized and incorporated under the laws of this
76 state as a nonprofit corporation for protection of life or property. The total amount of revenue
77 collected by reason of this tax shall be paid into the State Road Fund and expended by the
78 Commissioner of Highways for matching federal funds allocated for West Virginia. In addition to
79 the tax, there is a charge of ~~\$5~~ \$40 for each original certificate of title ~~or~~ and \$35 for each duplicate
80 certificate of title so issued: *Provided,* That this state or any political subdivision of this state or
81 any volunteer fire department or duly chartered rescue squad is exempt from payment of the
82 charge.

83 (8) The certificate is good for the life of the vehicle, so long as the vehicle is owned or held

84 by the original holder of the certificate and need not be renewed annually, or any other time,
85 except as provided in this section.

86 (9) If, by will or direct inheritance, a person becomes the owner of a motor vehicle and the
87 tax imposed by this section previously has been paid to the Division of Motor Vehicles on that
88 vehicle, he or she is not required to pay the tax.

89 (10) A person who has paid the tax imposed by this section is not required to pay the tax
90 a second time for the same motor vehicle, but is required to pay a charge of \$5 \$40 for the
91 certificate of retitling of that motor vehicle, except that the tax shall be paid by the person when the
92 title to the vehicle has been transferred either in this or another state from the person to another
93 person and transferred back to the person.

94 (11) The tax imposed by this section does not apply to any passenger vehicle offered for
95 rent in the normal course of business by a daily passenger rental car business as licensed under
96 the provisions of article six-d of this chapter. For purposes of this section, a daily passenger car
97 means a Class A motor vehicle having a gross weight of eight thousand pounds or less and is
98 registered in this state or any other state. In lieu of the tax imposed by this section, there is hereby
99 imposed a tax of not less than \$1 nor more than \$1.50 for each day or part of the rental period.
100 The commissioner shall propose an emergency rule in accordance with the provisions of article
101 three, chapter twenty-nine-a of this code to establish this tax.

102 (12) The tax imposed by this article does not apply to the titling of any vehicle purchased
103 by a senior citizen service organization which is exempt from the payment of income taxes under
104 the United States Internal Revenue Code, Title 26 U.S.C. §501(c)(3) and which is recognized to
105 be a bona fide senior citizen service organization by the senior services bureau existing under
106 the provisions of article five, chapter sixteen of this code.

107 (13) The tax imposed by this section does not apply to the titling of any vehicle operated
108 by an urban mass transit authority as defined in article twenty-seven, chapter eight of this code
109 or a nonprofit entity exempt from federal and state income tax under the Internal Revenue Code

110 and whose purpose is to provide mass transportation to the public at large designed for the
111 transportation of persons and being operated for the transportation of persons in the public
112 interest.

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

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

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

119 (C) Has relocated to this state and can present such evidence as the commissioner may
120 require to show bona-fide residency in this state;

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

124 (E) Makes application to the division for a title and registration, and pays all other fees
125 required by this chapter within thirty days of establishing residency in this state as prescribed in
126 subsection (a), section one-a of this article: *Provided*, That a period of amnesty of three months
127 be established by the commissioner during the calendar year 2007, during which time any
128 resident of this state, having titled his or her vehicle in a previous state of residence, may pay
129 without penalty any fees required by this chapter and transfer the title of his or her vehicle in
130 accordance with the provisions of this section.

131 (c) Notwithstanding any provisions of this code to the contrary, the owners of trailers,
132 semitrailers, recreational vehicles and other vehicles not subject to the certificate of title tax prior
133 to the enactment of this chapter are subject to the privilege tax imposed by this section: *Provided*,
134 That the certification of title of any recreational vehicle owned by the applicant on June 30, 1989,
135 is not subject to the tax imposed by this section: *Provided, however*, That mobile homes,

136 manufactured homes, modular homes and similar nonmotive propelled vehicles, except
137 recreational vehicles and house trailers, susceptible of being moved upon the highways but
138 primarily designed for habitation and occupancy, rather than for transporting persons or property,
139 or any vehicle operated on a nonprofit basis and used exclusively for the transportation of
140 intellectually disabled or physically disabled children when the application for certificate of
141 registration for the vehicle is accompanied by an affidavit stating that the vehicle will be operated
142 on a nonprofit basis and used exclusively for the transportation of intellectually disabled and
143 physically disabled children, are not subject to the tax imposed by this section, but are taxable
144 under the provisions of articles fifteen and fifteen-a, chapter eleven of this code.

145 (d) Beginning on July 1, 2008, the tax imposed under this subsection (b) of this section is
146 abolished and after that date no certificate of title for any motor vehicle may be issued to any
147 applicant unless the applicant provides sufficient proof to the Division of Motor Vehicles that the
148 applicant has paid the fees required by this article and the tax imposed under section three-b,
149 article fifteen, chapter eleven of this code.

150 (e) Any person making any affidavit required under any provision of this section who
151 knowingly swears falsely, or any person who counsels, advises, aids or abets another in the
152 commission of false swearing, or any person, while acting as an agent of the Division of Motor
153 Vehicles, issues a vehicle registration without first collecting the fees and taxes or fails to perform
154 any other duty required by this chapter or chapter eleven of this code to be performed before a
155 vehicle registration is issued is, on the first offense, guilty of a misdemeanor and, upon conviction
156 thereof, shall be fined not more than \$500 or be confined in jail for a period not to exceed six
157 months or, in the discretion of the court, both fined and confined. For a second or any subsequent
158 conviction within five years, that person is guilty of a felony and, upon conviction thereof, shall be
159 fined not more than \$5,000 or be imprisoned in a state correctional facility for not less than one
160 year nor more than five years or, in the discretion of the court, both fined and imprisoned.

161 (f) Notwithstanding any other provisions of this section, any person in the military stationed

162 outside West Virginia or his or her dependents who possess a motor vehicle with valid registration
163 are exempt from the provisions of this article for a period of nine months from the date the person
164 returns to this state or the date his or her dependent returns to this state, whichever is later.

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

167 (1) Any person who fails to provide a certificate of title upon the transfer, purchase or sale
168 of a factory-built home is guilty of a misdemeanor and, upon conviction thereof, shall for the first
169 offense be fined not less than \$100 nor more than \$1,000, or be confined in jail for not more than
170 one year, or both fined and confined. For each subsequent offense, the fine may be increased to
171 not more than \$2,000, with confinement in jail not more than one year, or both fined and confined.

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

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

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

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

186 (j) A person who seeks expedited processing of an application for certificate of title or a
187 request for a duplicate title and who appears in person at a regional office or other Division of

188 Motor Vehicles service area may receive same-day service of production of the certificate or
 189 duplicate after paying a fee of \$10 in addition to the regular title fees required by this chapter.

ARTICLE 4. TRANSFERS OF TITLE OR INTEREST.

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

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

22 owner's identification until he or she receives a new registration card from the ~~department~~ division.

23 The owner of a set of registration plates may surrender them to the commissioner together
24 with the registration card and, upon the payment of ~~\$5~~ \$15 as an exchange fee and upon the
25 payment of such additional fees as are necessary to equalize the value of the plates surrendered
26 with the value of registration plates desired, receive in exchange a set of plates and registration
27 card for a vehicle of a different class.

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

1 (a) In the event a motor vehicle is determined to be a total loss or otherwise designated
2 as totaled by an insurance company or insurer, and upon payment of a total loss claim to an
3 insured or claimant owner for the purchase of the vehicle, the insurance company or the insurer,
4 as a condition of the payment, shall require the owner to surrender the certificate of title: *Provided,*
5 That an insured or claimant owner may choose to retain physical possession and ownership of a
6 total loss vehicle. If the vehicle owner chooses to retain the vehicle and the vehicle has not been
7 determined to be a cosmetic total loss in accordance with subsection (d) of this section, the
8 insurance company or insurer shall also require the owner to surrender the vehicle registration
9 certificate. The term "total loss" means a motor vehicle which has sustained damages equivalent
10 to seventy-five percent or more of the market value as determined by a nationally accepted used
11 car value guide or meets the definition of a flood-damaged vehicle as defined in this section.

12 (b) The insurance company or insurer shall, prior to the payment of the total loss claim,
13 determine if the vehicle is repairable, cosmetically damaged or nonrepairable. Within ten days of
14 payment of the total loss claim, the insurance company or insurer shall surrender the certificate
15 of title, a copy of the claim settlement, a completed application on a form prescribed by the
16 commissioner and the registration certificate if the owner has chosen to keep the vehicle to the
17 Division of Motor Vehicles.

18 (c) If the insurance company or insurer determines that the vehicle is repairable, the
19 division shall issue a salvage certificate, on a form prescribed by the commissioner, in the name

20 of the insurance company, the insurer or the vehicle owner if the owner has chosen to retain the
21 vehicle. The certificate shall contain, on the reverse, spaces for one successive assignment
22 before a new certificate at an additional fee is required. Upon the sale of the vehicle, the insurance
23 company, insurer or vehicle owner if the owner has chosen to retain the vehicle, shall complete
24 the assignment of ownership on the salvage certificate and deliver it to the purchaser. The vehicle
25 may not be titled or registered for operation on the streets or highways of this state unless there
26 is compliance with subsection (g) of this section. The division shall charge a fee of \$15 for each
27 salvage title issued.

28 (d) If the insurance company or insurer determines the damage to a totaled vehicle is
29 exclusively cosmetic and no repair is necessary in order to legally and safely operate the motor
30 vehicle on the roads and highways of this state, the insurance company or insurer shall, upon
31 payment of the claim, submit the certificate of title to the division. Neither the insurance company
32 nor the division may require the vehicle owner to surrender the registration certificate in the event
33 of a cosmetic total loss settlement.

34 (1) The division shall, without further inspection, issue a title branded "cosmetic total loss"
35 to the insured or claimant owner if the insured or claimant owner wishes to retain possession of
36 the vehicle, in lieu of a salvage certificate. The division shall charge a fee of ~~\$5~~ \$40 for each
37 cosmetic total loss title issued. The terms "cosmetically damaged" and "cosmetic total loss" do
38 not include any vehicle which has been damaged by flood or fire. The designation "cosmetic total
39 loss" on a title may not be removed.

40 (2) If the insured or claimant owner elects not to take possession of the vehicle and the
41 insurance company or insurer retains possession, the division shall issue a cosmetic total loss
42 salvage certificate to the insurance company or insurer. The division shall charge a fee of ~~\$15~~
43 \$40 for each cosmetic total loss salvage certificate issued. The division shall, upon surrender of
44 the cosmetic total loss salvage certificate issued under the provisions of this paragraph and
45 payment of the five percent motor vehicle sales tax on the fair market value of the vehicle as

46 determined by the commissioner, issue a title branded “cosmetic total loss” without further
47 inspection.

48 (e) If the insurance company or insurer determines that the damage to a totaled vehicle
49 renders it nonrepairable, incapable of safe operation for use on roads and highways and as having
50 no resale value except as a source of parts or scrap, the insurance company or vehicle owner
51 shall, in the manner prescribed by the commissioner, request that the division issue a
52 nonrepairable motor vehicle certificate in lieu of a salvage certificate. The division shall issue a
53 nonrepairable motor vehicle certificate without charge.

54 (f) Any owner who scraps, compresses, dismantles or destroys a vehicle without further
55 transfer or sale for which a certificate of title, nonrepairable motor vehicle certificate or salvage
56 certificate has been issued shall, within forty-five days, surrender the certificate of title,
57 nonrepairable motor vehicle certificate or salvage certificate to the division for cancellation.

58 (g) Any person who purchases or acquires a vehicle as salvage or scrap, to be dismantled,
59 compressed or destroyed, shall, within forty-five days, surrender to the division the certificate of
60 title, nonrepairable motor vehicle certificate, salvage certificate or a statement of cancellation
61 signed by the seller, on a form prescribed by the commissioner. Subsequent purchasers of
62 salvage or scrap are not required to comply with the notification requirement.

63 (h) If the motor vehicle is a “reconstructed vehicle” as defined in this section or section
64 one, article one of this chapter, it may not be titled or registered for operation until it has been
65 inspected by an official state inspection station and by the Division of Motor Vehicles. Following
66 an approved inspection, an application for a new certificate of title may be submitted to the
67 division. The applicant is required to retain all receipts for component parts, equipment and
68 materials used in the reconstruction. The salvage certificate shall also be surrendered to the
69 division before a certificate of title may be issued with the appropriate brand.

70 (i) The owner or title holder of a motor vehicle titled in this state which has previously been
71 branded in this state or another state as salvage, reconstructed, cosmetic total loss, cosmetic

72 total loss salvage, flood, fire, an equivalent term under another state's laws or a term consistent
73 with the intent of the National Motor Vehicle Title Information System established pursuant to 49
74 U. S. C. §30502 shall, upon becoming aware of the brand, apply for and receive a title from the
75 Division of Motor Vehicles on which the brand "reconstructed", "salvage", "cosmetic total loss",
76 "cosmetic total loss salvage", "flood", "fire" or other brand is shown. The division shall charge a
77 fee of ~~\$5~~ \$40 for each title so issued.

78 (j) If application is made for title to a motor vehicle, the title to which has previously been
79 branded reconstructed, salvage, cosmetic total loss, cosmetic total loss salvage, flood, fire or
80 other brand by the Division of Motor Vehicles under this section and said application is
81 accompanied by a title from another state which does not carry the brand, the division shall, before
82 issuing the title, affix the brand "reconstructed", "cosmetic total loss", "cosmetic total loss
83 salvage", "flood", "fire" or other brand to the title. The motor vehicle sales tax paid on a motor
84 vehicle titled as reconstructed, cosmetic total loss, flood, fire or other brand under the provisions
85 of this section shall be based on fifty percent of the fair market value of the vehicle as determined
86 by a nationally accepted used car value guide to be used by the commissioner.

87 (k) The division shall charge a fee of ~~\$15~~ \$40 for the issuance of each salvage certificate
88 or cosmetic total loss salvage certificate but shall not require the payment of the five percent motor
89 vehicle sales tax. However, upon application for a certificate of title for a reconstructed, cosmetic
90 total loss, flood or fire damaged vehicle or other brand, the division shall collect the five percent
91 privilege tax on the fair market value of the vehicle as determined by the commissioner unless
92 the applicant is otherwise exempt from the payment of such privilege tax. A
93 wrecker/dismantler/rebuilder, licensed by the division, is exempt from the payment of the five
94 percent privilege tax upon titling a reconstructed vehicle. The division shall collect a fee of \$35
95 per vehicle for inspections of reconstructed vehicles. These fees shall be deposited in a special
96 fund created in the State Treasurer's Office and may be expended by the division to carry out the
97 provisions of this article: *Provided*, That on and after July 1, 2007, any balance in the special fund

98 and all fees collected pursuant to this section shall be deposited in the State Road Fund. Licensed
99 wreckers/dismantlers/rebuilders may charge a fee not to exceed \$25 for all vehicles owned by
100 private rebuilders which are inspected at the place of business of a wrecker/dismantler/rebuilder.

101 (l) As used in this section:

102 (1) "Reconstructed vehicle" means the vehicle was totaled under the provisions of this
103 section or by the provisions of another state or jurisdiction and has been rebuilt in accordance
104 with the provisions of this section or in accordance with the provisions of another state or
105 jurisdiction or meets the provisions of subsection (m), section one, article one of this chapter.

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

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

112 (m) Every vehicle owner shall comply with the branding requirements for a totaled vehicle
113 whether or not the owner receives an insurance claim settlement for a totaled vehicle.

114 (n) A certificate of title issued by the division for a reconstructed vehicle shall contain
115 markings in bold print on the face of the title that it is for a reconstructed, flood- or fire damaged
116 vehicle.

117 (o) Any person who knowingly provides false or fraudulent information to the division that
118 is required by this section in an application for a title, a cosmetic total loss title, a reconstructed
119 vehicle title or a salvage certificate or who knowingly fails to disclose to the division information
120 required by this section to be included in the application or who otherwise violates the provisions
121 of this section is guilty of a misdemeanor and, upon conviction thereof, shall for each incident be
122 fined not less than \$1,000 nor more than \$2,500, or imprisoned in jail for not more than one year,
123 or both fined and imprisoned.

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

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

1 The Division of Motor Vehicles is hereby authorized to charge a fee of ~~\$5~~ \$20 for the
2 recording of any lien either in an electronic or paper format created by the voluntary act of the
3 owner and endorsing it upon the title certificate issued pursuant to this article, and the Division of
4 Motor Vehicles is hereby authorized to charge a fee of ~~50¢~~ \$20 for recordation of any release of
5 a lien created by the voluntary act of the owner: *Provided*, That no charge shall be made for the
6 endorsement and recordation of liens or releases thereof as provided under section nine of this
7 article. No charge shall be made for the issuance of a title to the owner of a vehicle upon the
8 receipt of an electronic release of the final lien.

ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.

§17A-10-1. Classification of vehicles for purpose of registration.

1 Vehicles subject to registration under the provisions of this chapter shall be placed in the
2 following classes for the purpose of registration:

3 Class A. Motor vehicles of passenger type and trucks with a gross weight of ten thousand
4 pounds or less;

5 Class B. Motor vehicles designated as trucks with a gross weight of more than ten
6 thousand pounds, truck tractors or road tractors;

7 Class C. All trailers and semitrailers, except house trailers and trailers or semitrailers
8 designed to be drawn by Class A motor vehicles and having a gross weight of less than two
9 thousand pounds;

10 Class G. Motorcycles and parking enforcement vehicles;

11 Class H. Motor vehicles operated regularly for the transportation of persons for
12 compensation under a certificate of convenience and necessity or contract carrier permit issued

13 by the Public Service Commission;

14 Class J. Motor vehicles operated for transportation of persons for compensation by
 15 common carriers, not running over a regular route or between fixed termini;

16 Class M. Mobile equipment as defined in subdivision (oo), section one, article one of this
 17 chapter;

18 Class R. House trailers;

19 Class T. Trailers or semitrailers of a type designed to be drawn by Class A vehicles and
 20 having a gross weight of less than two thousand pounds; and

21 Class X. Motor vehicles designated as trucks having a minimum gross weight of more
 22 than eight thousand pounds and a maximum gross weight of eighty thousand pounds, used
 23 exclusively in the conduct of a farming business, engaged in the production of agricultural
 24 products by means of: (a) The planting, cultivation and harvesting of agricultural, horticultural,
 25 vegetable or other products of the soil; or (b) the raising, feeding and care of livestock, poultry,
 26 bees and dairy cattle. A farm truck may be used only for the transportation of agricultural products
 27 produced by the owner of the truck, for the transportation of agricultural supplies used in the
 28 production or for private passenger use.

29 Class AF. Alternative fuel vehicles, including, but not limited to, those vehicles fueled by
 30 hydrogen, natural gas and nonpetrochemical fuels, and those vehicles using a combination of
 31 electricity and petrochemical fuels.

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

1 The following registration fees for the classes indicated shall be paid to the division for the
 2 registration of vehicles subject to registration under this chapter when equipped with pneumatic
 3 tires:

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

5 (1) *Class A.* -- The registration fee for motor vehicles of this class is ~~\$28.50~~ \$49.

6 ~~Provided, That~~ The registration fees and any other fees required by this chapter for Class

7 A vehicles under the optional biennial staggered registration system shall be multiplied by two
8 and paid biennially to the division.

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

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

14 (A) For declared gross weights of ten thousand one pounds to sixteen thousand pounds -
15 - \$28 plus \$5 for each one thousand pounds or fraction of one thousand pounds that the gross
16 weight of the vehicle or combination of vehicles exceeds ten thousand pounds.

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

21 (C) For declared gross weights of fifty-five thousand pounds or more -- \$737.50 plus
22 \$15.75 for each one thousand pounds or fraction of one thousand pounds that the gross weight
23 of the vehicle or combination of vehicles exceeds fifty-five thousand pounds.

24 (3) *Class G.* -- The registration fee for each motorcycle or parking enforcement vehicle is
25 \$8: *Provided*, That the registration fee and any other fees required by this chapter for Class G
26 vehicles shall be for at least one year and under an optional biennial registration system the
27 annual fee shall be multiplied by two and paid biennially to the division.

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

33 Vehicles.

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

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

38 (7) *Class X.* -- The registration fee for all motor vehicles of this class is as follows:

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

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

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

45 (D) For farm trucks of declared gross weights of twenty-eight thousand one pounds to
46 thirty-four thousand pounds -- \$115.

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

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

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

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

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

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

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

63 (d) The registration fee for all Class C vehicles is \$50. All Class C trailers shall be
 64 registered for the duration of the owner's interest in the trailer and do not expire until either sold
 65 or otherwise permanently removed from the service of the owner: *Provided*, That a registrant may
 66 transfer a Class C registration plate from a trailer owned less than thirty days to another Class C
 67 trailer titled in the name of the registrant upon payment of the transfer fee prescribed in section
 68 ten of this article.

§17A-10-3c. Additional registration fees for alternative fuel vehicles.

1 The annual registration fee for an alternative fuel vehicle, Class AF, fueled with hydrogen,
 2 natural gas and nonpetrochemical fuels, is \$200. The annual registration fee for an alternative
 3 fuel vehicle operating on a combination of electricity and petrochemical fuels is \$100. Such fee
 4 is in addition to any other fee set forth in this article.

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

1 A fee of ~~\$5~~ \$15 shall be paid for a transfer of registration by an owner from one vehicle to
 2 another vehicle of the same class or for surrender of registration of one vehicle in exchange for
 3 registration of a vehicle of a different class in addition to the payment of any difference in fees as
 4 provided in section one, article four of this chapter.

5 A fee of ~~\$5~~ \$15 shall be paid for the transfer of registration from a deceased person to his
 6 or her legal heir or legatee as provided in section five, article four of this chapter.

7 A fee of ~~\$5~~ \$40 shall be paid for the issuance of a certificate of title.

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

1 A fee of ~~\$5~~ \$15 shall be paid for the issuance of duplicate or substitute registration

2 plates, registration cards or certificates of title. A fee of \$15 shall be paid for the issuance of
 3 duplicate or substitute registration plates or decals. A fee of \$35 shall be paid for the issuance of
 4 duplicate certificates of title.

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.

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

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

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

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

14 (c) The following drivers licenses classifications are hereby established:

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

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

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

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

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

44 (d) All licenses issued under this section may contain information designating the licensee

45 as a diabetic, organ donor, as deaf or hard-of-hearing, or as having any other handicap or
46 disability, or that the licensee is an honorably discharged veteran of any branch of the Armed
47 Forces of the United States according to criteria established by the division, if the licensee
48 requests this information on the license. An honorably discharged veteran may be issued a
49 replacement license without charge if the request is made before the expiration date of the current
50 license and the only purpose for receiving the replacement license is to get the veterans
51 designation placed on the license.

52 (e) No person, except those hereinafter expressly exempted, may drive any motorcycle
53 upon a street or highway in this state or upon any subdivision street used by the public generally
54 unless the person has a valid motorcycle license, a valid license which has been endorsed under
55 section seven-b of this article for motorcycle operation or a valid motorcycle instruction permit.

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

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

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

61 (C) Has paid the required fee of ~~two dollars and fifty cents~~ \$8 per year: *Provided*, That
62 the fee is not required if the applicant is sixty-five years or older or is legally blind; and

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

65 (2) The identification card shall contain the same information as a driver's license except
66 that the identification card shall be clearly marked as an identification card. The division may
67 issue an identification card with less information to persons under the age of sixteen. An
68 identification card may be renewed annually on application and payment of the fee required by
69 this section.

70 (A) Every identification card issued to a person who has attained his or her twenty-first

71 birthday expires on the licensee's birthday in those years in which the licensee's age is evenly
72 divisible by five. Except as provided in paragraph (B) of this subdivision, no identification card
73 may be issued for less than three years or for more than seven years and expires on the licensee's
74 birthday in those years in which the licensee's age is evenly divisible by five.

75 (B) Every identification card issued to a person who has not attained his or her twenty-first
76 birthday expires thirty days after the licensee's twenty-first birthday.

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

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

83 (g) Any person violating the provisions of this section is guilty of a misdemeanor and, upon
84 conviction, shall be fined not more than \$500; and upon a second or subsequent conviction, shall
85 be fined not more than \$500 or confined in jail not more than six months, or both fined and
86 confined.

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

1 (a) Any person under the age of eighteen may not operate a motor vehicle unless he or
2 she has obtained a graduated driver's license in accordance with the three-level graduated
3 driver's license system described in the following provisions.

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

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

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

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

18 (B) Presents a certified copy of a birth certificate issued by a state or other governmental
19 entity responsible for vital records unexpired, or a valid passport issued by the United States
20 government evidencing that the applicant meets the minimum age requirement and is of verifiable
21 identity;

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

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

26 (E) Pays a fee of \$5, which shall permit the applicant two attempts at the written knowledge
27 test.

28 (2) *Terms and conditions of instruction permit.* -- A level one instruction permit issued
29 under the provisions of this section is valid until thirty days after the date the applicant attains the
30 age of eighteen and is not renewable. However, any permit holder who allows his or her permit
31 to expire prior to successfully passing the road skills portion of the driver examination, and who
32 has not committed any offense which requires the suspension, revocation or cancellation of the
33 instruction permit, may reapply for a new instruction permit under the provisions of section six of
34 this article. The division shall immediately revoke the permit upon receipt of a second conviction
35 for a moving violation of traffic regulations and laws of the road or violation of the terms and

36 conditions of a level one instruction permit, which convictions have become final unless a greater
37 penalty is required by this section or any other provision of this code. Any person whose
38 instruction permit has been revoked is disqualified from retesting for a period of ninety days.
39 However, after the expiration of ninety days, the person may retest if otherwise eligible. In addition
40 to all other provisions of this code for which a driver's license may be restricted, suspended,
41 revoked or canceled, the holder of a level one instruction permit may only operate a motor vehicle
42 under the following conditions:

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

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

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

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

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

56 (F) A holder of a level one instruction permit who is under the age of eighteen years shall
57 be prohibited from using a wireless communication device while operating a motor vehicle, unless
58 the use of the wireless communication device is for contacting a 9-1-1 system. A person violating
59 the provisions of this paragraph is guilty of a misdemeanor and, upon conviction thereof, shall for
60 the first offense be fined \$25; for a second offense be fined \$50; and for a third or subsequent
61 offense be fined \$75.

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

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

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

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

70 (C) Has completed either a driver's education course approved by the state Department
71 of Education or fifty hours of behind-the-wheel driving experience, including a minimum of ten
72 hours of nighttime driving, certified by a parent or legal guardian or other responsible adult over
73 the age of twenty-one as indicated on the form prescribed by the division: *Provided*, That nothing
74 in this paragraph shall be construed to require any school or any county Board of Education to
75 provide any particular number of driver's education courses or to provide driver's education
76 training to any student;

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

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

80 (F) Pays a fee of \$5.

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

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

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

91 (i) Lawful employment;

92 (ii) A school-sanctioned activity;

93 (iii) A religious event; or

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

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

98 (D) For the first six months after issuance of a level two intermediate driver's license, the
99 licensee may not operate a motor vehicle carrying any passengers less than twenty years old,
100 unless these passengers are family members of the licensee; for the second six months after
101 issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle
102 carrying more than one passenger less than twenty years old, unless these passengers are family
103 members of the licensee;

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

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

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

114 or subsequent offense be fined \$75.

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

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

125 (I) Upon the second conviction for a moving traffic violation or a violation of the terms and
126 conditions of the level two intermediate driver's license, the licensee's privilege to operate a motor
127 vehicle shall be revoked or suspended for the applicable statutory period or until the licensee's
128 eighteenth birthday, whichever is longer unless a greater penalty is required by this section or any
129 other provision of this code. Any person whose driver's license has been revoked as a level two
130 intermediate driver, upon reaching the age of eighteen years and if otherwise eligible may reapply
131 for an instruction permit, then a driver's license in accordance with the provisions of sections five,
132 six and seven of this article.

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

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

140 if the licensee:

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (b) A driver's license which is valid for operation of a motorcycle shall contain a motorcycle
10 endorsement. A driver's license which is valid for the operation of a commercial motor vehicle
11 shall be issued in accordance with chapter seventeen-e of this code.

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

15 (d) The fee for the issuance of a Class E driver's license is ~~\$2.50~~ \$8 per year for each year
16 the license is valid. The fee for issuance of a Class D driver's license is ~~\$6.25~~ \$6.50 per year for
17 each year the license is valid. An additional fee of \$0.50 shall be collected from the applicant at
18 the time of original issuance or each renewal and the additional fee shall be deposited in the
19 Combined Voter Registration and Driver's Licensing Fund established pursuant to the provisions
20 of section twelve, article two, chapter three of this code. The additional fee for adding a motorcycle
21 endorsement to a driver's license is \$1 per year for each year the license is issued.

22 (e) The fee for issuance of a motorcycle-only license is \$2.50 for each year for which the
23 motorcycle license is valid. The fees for the motorcycle endorsement or motorcycle-only license
24 shall be paid into a special fund in the State Treasury known as the Motorcycle Safety Fund as
25 established in section seven, article one-d of this chapter.

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

28 (g) The fee for issuance of a federally compliant driver's license or identification card for
29 federal use is \$10 in addition to any other fee required by this chapter. Any fees collected under
30 the provisions of this subsection shall be deposited into the Motor Vehicle Fees Fund established
31 in accordance with section twenty-one, article two, chapter seventeen-a of this code.

32 (h) The division may use an address on the face of the license other than the applicant's
33 address of residence if:

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

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

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

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

43 (i) Notwithstanding any provision in this article to the contrary, a valid military identification
44 card with an expiration date issued by the United States Department of Defense for active duty,
45 reserve or retired military personnel containing a digitized photo and the holder's full legal name
46 may be used to establish current full legal name and legal presence. The commissioner may at
47 his or her discretion expand the use of military identification cards for other uses as permitted
48 under this code or federal rule.

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

1 In the event that an instruction permit or driver's license issued under the provisions of
2 this chapter is lost or destroyed, or if the information contained on the license has changed, the
3 person to whom the permit or license was issued may upon making proper application and upon

4 payment of a fee of ~~\$5~~ \$20 obtain a duplicate thereof upon furnishing proof satisfactory to the
5 division that the permit or license has been lost or destroyed.

CHAPTER 17D. MOTOR VEHICLE SAFETY RESPONSIBILITY LAW.

ARTICLE 2. ADMINISTRATION OF LAW.

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

1 The commissioner shall upon request and subject to the provisions of article two-a,
2 chapter seventeen-a of this code, furnish any person a certified abstract of the operating record
3 of any person subject to the provisions of this chapter, and if there is no record of any conviction
4 of the person of a violation of any law relating to the operation of a motor vehicle or of any injury
5 or damage caused by the person, the commissioner shall so certify. The commissioner shall
6 collect ~~\$5~~ \$25 for each abstract.

NOTE: The purpose of this bill is to raise money for the State Road Fund, road construction and maintenance and construction employment.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.