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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**

REGULAR SESSION, 1997



**ENROLLED**

*Committee Substitute For*  
**SENATE BILL NO. 74**

(By Senator *DITMAR*)



**PASSED *MARCH 28,* 1997**

**In Effect *NINETY DAYS FROM* Passage**

APR 12 5 33 PM '97

OFFICE OF THE CLERK OF THE HOUSE OF DELEGATES  
SECRETARY OF STATE

## ENROLLED

COMMITTEE SUBSTITUTE  
FOR

### Senate Bill No. 74

(SENATOR DITTMAR, *original sponsor*)

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[Passed March 28, 1997; in effect ninety days from passage.]

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AN ACT to amend and reenact section one, article one, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections two and four, article three of said chapter; to amend and reenact section one, article five of said chapter; and to amend and reenact sections one and three, article ten of said chapter, all relating to definition, titling, registration and taxation of special mobile equipment and mixed use equipment.

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

That section one, article one, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections two and four,

article three of said chapter be amended and reenacted; that section one, article five of said chapter be amended and reenacted; and that sections one and three, article ten of said chapter be amended and reenacted, all to read as follows:

**ARTICLE 1. WORDS AND PHRASES DEFINED.**

**§17A-1-1. Definitions.**

1 Except as otherwise provided in this chapter the follow-  
2 ing words and phrases when used in this chapter shall  
3 have the meanings respectively ascribed to them in this  
4 article:

5 (a) "Vehicle" means every device in, upon or by which  
6 any person or property is or may be transported or drawn  
7 upon a highway, excepting devices moved by human  
8 power or used exclusively upon stationary rails or tracks.

9 (b) "Motor vehicle" means every vehicle which is  
10 self-propelled and every vehicle which is propelled by  
11 electric power obtained from overhead trolley wires, but  
12 not operated upon rails.

13 (c) "Motorcycle" means every motor vehicle, including  
14 motor-driven cycles and mopeds as defined in sections five  
15 and five-a, article one, chapter seventeen-c of this code,  
16 having a saddle for the use of the rider and designed to  
17 travel on not more than three wheels in contact with the  
18 ground but excluding a tractor.

19 (d) "School bus" means every motor vehicle owned by a  
20 public governmental agency and operated for the trans-  
21 portation of children to or from school or privately owned  
22 and operated for compensation for the transportation of  
23 children to or from school.

24 (e) "Bus" means every motor vehicle designed for  
25 carrying more than seven passengers and used for the  
26 transportation of persons; and every motor vehicle, other  
27 than a taxicab, designed and used for the transportation  
28 of persons for compensation.

29 (f) "Truck tractor" means every motor vehicle designed  
30 and used primarily for drawing other vehicles and not so  
31 constructed as to carry a load other than a part of the

32 weight of the vehicle and load so drawn.

33 (g) "Farm tractor" means every motor vehicle designed  
34 and used primarily as a farm implement for drawing  
35 plows, mowing machines and other implements of hus-  
36 bandry.

37 (h) "Road tractor" means every motor vehicle designed,  
38 used or maintained for drawing other vehicles and not so  
39 constructed as to carry any load thereon either independ-  
40 ently or any part of the weight of a vehicle or load so  
41 drawn.

42 (i) "Truck" means every motor vehicle designed, used or  
43 maintained primarily for the transportation of property.

44 (j) "Trailer" means every vehicle with or without motive  
45 power designed for carrying persons or property and for  
46 being drawn by a motor vehicle and so constructed that no  
47 part of its weight rests upon the towing vehicle but  
48 excluding recreational vehicles.

49 (k) "Semitrailer" means every vehicle with or without  
50 motive power designed for carrying persons or property  
51 and for being drawn by a motor vehicle and so constructed  
52 that some part of its weight and that of its load rests upon  
53 or is carried by another vehicle.

54 (l) "Pole trailer" means every vehicle without motive  
55 power designed to be drawn by another vehicle and  
56 attached to the towing vehicle by means of a reach, or  
57 pole, or by being boomed or otherwise secured to the  
58 towing vehicle, and ordinarily used for transporting long  
59 or irregularly shaped loads such as poles, pipes, or struc-  
60 tural members capable, generally, of sustaining them-  
61 selves as beams between the supporting connections.

62 (m) "Specially constructed vehicles" means every vehicle  
63 of a type required to be registered hereunder not origi-  
64 nally constructed under a distinctive name, make, model  
65 or type by a generally recognized manufacturer of vehicles  
66 and not materially altered from its original construction.

67 (n) "Reconstructed vehicle" means every vehicle of a  
68 type required to be registered hereunder materially

69 altered from its original construction by the removal,  
70 addition or substitution of essential parts, new or used.

71 (o) "Essential parts" means all integral and body parts  
72 of a vehicle of a type required to be registered hereunder,  
73 the removal, alteration or substitution of which would  
74 tend to conceal the identity of the vehicle or substantially  
75 alter its appearance, model, type or mode of operation.

76 (p) "Foreign vehicle" means every vehicle of a type  
77 required to be registered hereunder brought into this state  
78 from another state, territory or country other than in the  
79 ordinary course of business by or through a manufacturer  
80 or dealer and not registered in this state.

81 (q) "Implement of husbandry" means every vehicle  
82 which is designed for or adapted to agricultural purposes  
83 and used by the owner thereof primarily in the conduct of  
84 his agricultural operations, including, but not limited to,  
85 trucks used for spraying trees and plants: *Provided*, That  
86 said vehicle shall not be let for hire at any time.

87 (r) "Special mobile equipment" means every self-  
88 propelled vehicle not designed or used primarily for the  
89 transportation of persons or property and incidentally  
90 operated or moved over the highways, including, without  
91 limitation, road construction or maintenance machinery,  
92 ditch-digging apparatus, stone crushers, air compressors,  
93 power shovels, graders, rollers, asphalt spreaders, bitumi-  
94 nous mixers, bucket loaders, ditchers, leveling graders,  
95 finishing machines, motor graders, road rollers, scarifiers,  
96 earth-moving carryalls, scrapers, drag lines, rock-drilling  
97 equipment and earth-moving equipment. The foregoing  
98 enumeration shall be deemed partial and shall not operate  
99 to exclude other such vehicles which are within the  
100 general terms of this subdivision.

101 (s) "Pneumatic tire" means every tire in which com-  
102 pressed air is designed to support the load.

103 (t) "Solid tire" means every tire of rubber or other  
104 resilient material which does not depend upon compressed  
105 air for the support of the load.

106 (u) "Metal tire" means every tire the surface of which in

107 contact with the highway is wholly or partly of metal or  
108 other hard, nonresilient material.

109 (v) "Commissioner" means the commissioner of motor  
110 vehicles of this state.

111 (w) "Department" means the department of motor  
112 vehicles of this state acting directly or through its duly  
113 authorized officers and agents.

114 (x) "Person" means every natural person, firm,  
115 copartnership, association or corporation.

116 (y) "Owner" means a person who holds the legal title to  
117 a vehicle, or in the event a vehicle is the subject of an  
118 agreement for the conditional sale or lease thereof with  
119 the right of purchase upon performance of the conditions  
120 stated in the agreement and with an immediate right of  
121 possession vested in the conditional vendee or lessee, or in  
122 the event a mortgagor of a vehicle is entitled to possession,  
123 then such conditional vendee or lessee or mortgagor shall  
124 be deemed the owner for the purpose of this chapter.

125 (z) "Nonresident" means every person who is not a  
126 resident of this state.

127 (aa) "Dealer" or "dealers" is a general term meaning,  
128 depending upon the context in which used, either a new  
129 motor vehicle dealer, used motor vehicle dealer, factory-  
130 built home dealer, recreational vehicle dealer, trailer  
131 dealer or motorcycle dealer, as defined in section one,  
132 article six of this chapter, or all of such dealers or a  
133 combination thereof, and in some instances a new motor  
134 vehicle dealer or dealers in another state.

135 (bb) "Registered dealer" or "registered dealers" is a  
136 general term meaning, depending upon the context in  
137 which used, either a new motor vehicle dealer, used motor  
138 vehicle dealer, house trailer dealer, trailer dealer, recre-  
139 ational vehicle dealer or motorcycle dealer, or all of such  
140 dealers or a combination thereof, licensed under the  
141 provisions of article six of this chapter.

142 (cc) "Licensed dealer" or "licensed dealers" is a general  
143 term meaning, depending upon the context in which used,

144 either a new motor vehicle dealer, used motor vehicle  
145 dealer, house trailer dealer, trailer dealer, recreational  
146 vehicle dealer or motorcycle dealer, or all of such dealers  
147 or a combination thereof, licensed under the provisions of  
148 article six of this chapter.

149 (dd) "Transporter" means every person engaged in the  
150 business of delivering vehicles of a type required to be  
151 registered hereunder from a manufacturing, assembling or  
152 distributing plant to dealers or sales agents of a manufac-  
153 turer.

154 (ee) "Manufacturer" means every person engaged in the  
155 business of constructing or assembling vehicles of a type  
156 required to be registered hereunder at a place of business  
157 in this state which is actually occupied either continuously  
158 or at regular periods by such manufacturer where his  
159 books and records are kept and a large share of his  
160 business is transacted.

161 (ff) "Street" or "highway" means the entire width  
162 between boundary lines of every way publicly maintained  
163 when any part thereof is open to the use of the public for  
164 purposes of vehicular travel.

165 (gg) "Motorboat" means any vessel propelled by an  
166 electrical, steam, gas, diesel or other fuel propelled or  
167 driven motor, whether or not such motor is the principal  
168 source of propulsion, but shall not include a vessel which  
169 has a valid marine document issued by the bureau of  
170 customs of the United States government or any federal  
171 agency successor thereto.

172 (hh) "Motorboat trailer" means every vehicle designed  
173 for or ordinarily used for the transportation of a motor-  
174 boat.

175 (ii) "All-terrain vehicle" (ATV) means any motor vehicle  
176 designed for off-highway use and designed for operator  
177 use only with no passengers, having a seat or saddle  
178 designed to be straddled by the operator, and handlebars  
179 for steering control.

180 (jj) "Travel trailer" means every vehicle, mounted on  
181 wheels, designed to provide temporary living quarters for

182 recreational, camping or travel use of such size or weight  
183 as not to require special highway movement permits when  
184 towed by a motor vehicle and of gross trailer area less  
185 than four hundred square feet.

186 (kk) "Fold down camping trailer" means every vehicle  
187 consisting of a portable unit mounted on wheels and  
188 constructed with collapsible partial sidewalls which fold  
189 for towing by another vehicle and unfold at the camp site  
190 to provide temporary living quarters for recreational,  
191 camping or travel use.

192 (ll) "Motor home" means every vehicle, designed to  
193 provide temporary living quarters, built into an integral  
194 part of or permanently attached to a self-propelled motor  
195 vehicle, chassis or van including: (1) Type A motor home  
196 built on an incomplete truck chassis with the truck cab  
197 constructed by the second stage manufacturer; (2) Type B  
198 motor home consisting of a van-type vehicle which has  
199 been altered to provide temporary living quarters; and (3)  
200 Type C motor home built on an incomplete van or truck  
201 chassis with a cab constructed by the chassis manufac-  
202 turer.

203 (mm) "Snowmobile" means a self-propelled vehicle  
204 intended for travel primarily on snow and driven by a  
205 track or tracks in contact with the snow and steered by a  
206 ski or skis in contact with the snow.

207 (nn) "Recreational vehicle" means a motorboat, motor-  
208 boat trailer, all-terrain vehicle, travel trailer, fold down  
209 camping trailer, motor home or snowmobile.

210 (oo) Mobile equipment means every self-propelled  
211 vehicle not designed or used primarily for the transporta-  
212 tion of persons or property over the highway but which  
213 may infrequently or incidentally travel over the highway  
214 among job sites, equipment storage sites or repair sites,  
215 including farm equipment, implements of husbandry,  
216 well-drillers, cranes and wood-sawing equipment.

217 (pp) "Factory-built home" includes mobile homes, house  
218 trailers and manufactured homes.

219 (qq) "Manufactured home" has the same meaning as the



220 term is defined in section two, article nine, chapter  
221 twenty-one of this code which meets the National Manu-  
222 factured Housing Construction and Safety Standards Act  
223 of 1974 (42 U.S.C. §5401 et seq.), effective on the fifteenth  
224 day of June, one thousand nine hundred seventy-six, and  
225 the federal manufactured home construction and safety  
226 standards and regulations promulgated by the secretary of  
227 the United States department of housing and urban  
228 development.

229 (rr) "Mobile home" means a transportable structure that  
230 is wholly, or in substantial part, made, fabricated, formed  
231 or assembled in manufacturing facilities for installation or  
232 assembly and installation on a building site and designed  
233 for long-term residential use and built prior to enactment  
234 of the federal Manufactured Housing Construction and  
235 Safety Standards Act of 1974 (42 U.S.C. §5401 et seq.),  
236 effective on the fifteenth day of June, one thousand nine  
237 hundred seventy-six, and usually built to the voluntary  
238 industry standard of the American national standards  
239 institute (ANSI) — A119.1 standards for mobile homes.

240 (ss) "House trailers" means all trailers designed and  
241 used for human occupancy on a continual nonrecreational  
242 basis, but may not include fold down camping and travel  
243 trailers, mobile homes or manufactured homes.

244 (tt) "Parking enforcement vehicle" means a motor  
245 vehicle which does not fit into any other classification of  
246 vehicle in this chapter, has three or four wheels and is  
247 designed for use in an incorporated municipality by a city,  
248 county, state or other governmental entity primarily for  
249 parking enforcement or other governmental purposes with  
250 an operator area with sides permanently enclosed with  
251 rigid construction and a top which may be convertible,  
252 sealed beam headlights, turn signals, brake lights, horn, at  
253 least one rear view mirror on each side and such other  
254 equipment that will enable it to pass a standard motorcy-  
255 cle vehicle inspection.

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

**§17A-3-2. Every motor vehicle, etc., subject to registration and**

**certificate of title provisions; exceptions.**

1 (a) Every motor vehicle, trailer, semitrailer, pole trailer  
2 and recreational vehicle when driven or moved upon a  
3 highway shall be subject to the registration and certificate  
4 of title provisions of this chapter except:

5 (1) Any such vehicle driven or moved upon a highway in  
6 conformance with the provisions of this chapter relating  
7 to manufacturers, transporters, dealers, lienholders or  
8 nonresidents or under a temporary registration permit  
9 issued by the department as hereinafter authorized;

10 (2) Any implement of husbandry upon which is securely  
11 attached a machine for spraying fruit trees and plants of  
12 the owner or lessee or for any other implement of hus-  
13 bandry which is used exclusively for agricultural or  
14 horticultural purposes on lands owned or leased by the  
15 owner thereof and which is not operated on or over any  
16 public highway of this state for any other purpose other  
17 than for the purpose of operating it across a highway or  
18 along a highway other than an expressway as designated  
19 by the commissioner of the division of highways from one  
20 point of the owner's land to another part thereof, irrespec-  
21 tive of whether or not the tracts adjoin: *Provided*, That  
22 the distance between the points shall not exceed  
23 twenty-five miles, or for the purpose of taking it or other  
24 fixtures thereto attached, to and from a repair shop for  
25 repairs. The foregoing exemption from registration and  
26 license requirements shall also apply to any vehicle  
27 hereinbefore described or to any farm trailer owned by the  
28 owner or lessee of the farm on which such trailer is used,  
29 when such trailer is used by the owner thereof for the  
30 purpose of moving farm produce and livestock from such  
31 farm along a public highway for a distance not to exceed  
32 twenty-five miles to a storage house or packing plant,  
33 when such use is a seasonal operation:

34 (A) The exemptions contained in this section shall also  
35 apply to farm machinery and tractors: *Provided*, That  
36 such machinery and tractors may use the highways in  
37 going from one tract of land to another tract of land  
38 regardless of whether such land be owned by the same or

39 different persons.

40 (B) Any vehicle exempted hereunder from the require-  
41 ments of annual registration certificate and license plates  
42 and fees therefor shall not be permitted to use the high-  
43 ways between sunset and sunrise.

44 (C) Any vehicle exempted hereunder from the require-  
45 ments of annual registration certificate and license plates  
46 shall be permitted to use the highways as herein provided  
47 whether such exempt vehicle is self-propelled, towed by  
48 another exempt vehicle or towed by another vehicle for  
49 which registration is required.

50 (D) Any vehicle used as an implement of husbandry  
51 exempt hereunder must have the words "farm use" affixed  
52 to both sides of the implement in ten inch letters. Any  
53 vehicle which would be subject to registration as a Class  
54 A or B vehicle if not exempted by this section shall display  
55 a farm use exemption certificate on the lower driver's side  
56 of the windshield:

57 (i) The farm use exemption certificate shall be provided  
58 by the commissioner and shall be issued annually by the  
59 assessor of the applicant's county of residence. The  
60 assessor shall issue a farm use exemption certificate upon  
61 his or her determination pursuant to an examination of  
62 the property books or documentation provided by the  
63 applicant that the vehicle has been properly assessed as  
64 Class I personal property. The assessor shall charge a fee  
65 of two dollars for each certificate, one dollar of the fee  
66 shall be retained by the assessor and one dollar shall be  
67 remitted by the assessor to the commissioner of the  
68 division of motor vehicles to be deposited in a special  
69 revolving fund to be used in the administration of this  
70 section.

71 (ii) A farm use exemption certificate shall in no way  
72 exempt the applicant from maintaining the security as  
73 required by chapter seventeen-d of this code on any  
74 vehicle being operated on the roads or highways of this  
75 state.

76 (iii) No person charged with operating a vehicle without

77 a farm use exemption certificate, if required under this  
78 section, shall be convicted if he or she produces in court or  
79 in the office of the arresting officer a valid farm use  
80 exemption certificate for the vehicle in question within  
81 five days;

82 (3) Any vehicle which is propelled exclusively by electric  
83 power obtained from overhead trolley wires though not  
84 operated upon rails;

85 (4) Any vehicle of a type subject to registration owned  
86 by the government of the United States;

87 (5) Any wrecked or disabled vehicle which is being  
88 towed by a licensed wrecker or dealer on the public  
89 highways of this state;

90 (6) The following recreational vehicles shall be exempt  
91 from the requirements of annual registration, license  
92 plates and fees, unless otherwise specified by law, but  
93 shall be subject to the certificate of title provisions of this  
94 chapter regardless of highway use: Motorboats,  
95 all-terrain vehicles and snowmobiles;

96 (7) Any special mobile equipment as defined in subsec-  
97 tion (r), section one, article one of this chapter.

98 (b) The provisions of this article relating to recreational  
99 vehicles shall become effective on the first day of July, one  
100 thousand nine hundred eighty-nine.

101 (c) Notwithstanding the provisions of subsections (a) and  
102 (b) of this section:

103 (1) Mobile homes or manufactured homes are exempt  
104 from the requirements of annual registration, license  
105 plates and fees;

106 (2) House trailers may be registered and licensed; and

107 (3) Factory-built homes are subject to the certificate of  
108 title provisions of this chapter.

**§17A-3-4. Application for certificate of title; tax for privilege  
of certification of title; exceptions; privilege tax  
on payments for leased vehicles; revenue alloca-  
tions; transfers; penalty for false swearing.**

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

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

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

37 (2) No certificate of title for any vehicle shall be issued  
38 to any applicant unless the applicant has paid to the  
39 division of motor vehicles the tax imposed by this section  
40 which is five percent of the true and actual value of the

41 vehicle whether the vehicle is acquired through purchase,  
42 by gift or by any other manner whatsoever except gifts  
43 between husband and wife or between parents and  
44 children: *Provided*, That the husband or wife, or the  
45 parents or children previously have paid the tax on the  
46 vehicles transferred to the state of West Virginia.

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

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

78 (5) The tax imposed by this section does not apply to  
79 vehicles to be registered as Class H vehicles, or Class M  
80 vehicles, as defined in section one, article ten of this

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

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

113 (7) The tax imposed by this section does not apply to  
114 titling of vehicles by a registered dealer of this state for  
115 resale only, nor does the tax imposed by this section apply  
116 to titling of vehicles by this state or any political subdivi-  
117 sion thereof, or by any volunteer fire department or duly  
118 chartered rescue or ambulance squad organized and  
119 incorporated under the laws of the state of West Virginia  
120 as a nonprofit corporation for protection of life or prop-

121 erty. The total amount of revenue collected by reason of  
122 this tax shall be paid into the state road fund and ex-  
123 pended by the commissioner of highways for matching  
124 federal funds allocated for West Virginia. In addition to  
125 the tax, there is a charge of five dollars for each original  
126 certificate of title or duplicate certificate of title so issued:  
127 *Provided*, That this state or any political subdivision  
128 thereof, or any volunteer fire department, or duly char-  
129 tered rescue squad, is exempt from payment of the charge.

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

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

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

147 (c) Notwithstanding any provisions of this code to the  
148 contrary, the owners of trailers, semitrailers, recreational  
149 vehicles and other vehicles not subject to the certificate of  
150 title tax prior to the enactment of this chapter are subject  
151 to the privilege tax imposed by this section: *Provided*,  
152 That the certification of title of any recreational vehicle  
153 owned by the applicant on the thirtieth day of June, one  
154 thousand nine hundred eighty-nine, is not subject to the  
155 tax imposed by this section: *Provided, however*, That  
156 mobile homes, manufactured homes, modular homes,  
157 house trailers and similar nonmotive propelled vehicles,  
158 except recreational vehicles, susceptible of being moved  
159 upon the highways but primarily designed for habitation



160 and occupancy, rather than for transporting persons or  
161 property, or any vehicle operated on a nonprofit basis and  
162 used exclusively for the transportation of mentally  
163 retarded or physically handicapped children when the  
164 application for certificate of registration for the vehicle is  
165 accompanied by an affidavit stating that the vehicle will  
166 be operated on a nonprofit basis and used exclusively for  
167 the transportation of mentally retarded and physically  
168 handicapped children, are not subject to the tax imposed  
169 by this section, but are taxable under the provisions of  
170 articles fifteen and fifteen-a, chapter eleven of this code.

171 (d) Any person making any affidavit required under any  
172 provision of this section, who knowingly swears falsely, or  
173 any person who counsels, advises, aids or abets another in  
174 the commission of false swearing, is on the first offense  
175 guilty of a misdemeanor, and upon conviction thereof,  
176 shall be fined not more than five hundred dollars or be  
177 imprisoned in the county jail for a period not to exceed six  
178 months, or, in the discretion of the court, both fined and  
179 imprisoned. For a second or any subsequent conviction  
180 within five years, that person is guilty of a felony, and  
181 upon conviction thereof, shall be fined not more than five  
182 thousand dollars or be imprisoned in the penitentiary for  
183 not less than one year nor more than five years, or, in the  
184 discretion of the court, fined and imprisoned.

185 (e) Notwithstanding any other provisions of this section,  
186 any person in the military stationed outside West Virginia,  
187 or his or her dependents who possess a motor vehicle with  
188 valid registration, are exempt from the provisions of this  
189 article for a period of nine months from the date that that  
190 person returns to this state or the date his or her depend-  
191 ent returns to this state, whichever is later.

192 (f) After the first day of July, one thousand nine hundred  
193 ninety-seven, no person may transfer, purchase or sell a  
194 factory-built home without a certificate of title issued by  
195 the commissioner in accordance with the provisions of this  
196 article:

197 (1) Any person who fails to provide a certificate of title  
198 upon the transfer, purchase or sale of a factory-built home

199 is guilty of a misdemeanor, and upon conviction thereof,  
200 shall for the first offense be fined not less than one  
201 hundred dollars nor more than one thousand dollars, or be  
202 imprisoned in the county or regional jail for not more than  
203 one year or, both fined and imprisoned. For each subse-  
204 quent offense, the fine may be increased to not more than  
205 two thousand dollars, with imprisonment in the county or  
206 regional jail not more than one year or, both fined and  
207 imprisoned.

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

**ARTICLE 5. PERMITS TO NONRESIDENT OWNERS.**

**§17A-5-1. Exemptions from registration of nonresident own-  
ers; special permit and certificate in lieu of  
registration for nonresidents maintaining tem-  
porary and recurrent or seasonal residence in  
state.**

1 (a) A nonresident owner, except as otherwise provided  
2 in this section, owning any vehicle registered in a foreign  
3 state or country of a Class A type otherwise subject to  
4 registration hereunder may operate or permit the opera-  
5 tion of such vehicle within this state for a period of thirty  
6 days without registering such vehicle in, or paying any  
7 fees to, this state subject to the condition that such vehicle  
8 at all times when operated in this state is duly registered  
9 in and displays upon it a valid registration card and  
10 registration plate or plates issued for such vehicle in the  
11 place of residence of such owner and that such vehicle is  
12 not operated for commercial purposes.

13 (b) Every nonresident, including any foreign corpora-  
14 tion, carrying on business within this state and owning  
15 and regularly operating in such business any motor  
16 vehicle, trailer or semitrailer or mobile equipment as  
17 defined in section one, article one, chapter seventeen-a of  
18 this code, within this state, shall be required to register  
19 each such vehicle and pay the same fee therefor as is

20 required with reference to like vehicles owned by residents  
21 of this state, except as otherwise provided by reciprocal  
22 agreements with other states accomplished pursuant to  
23 sections ten and ten-a, article two of this chapter.

24 (c) Any nonresident who accepts or engages in tempo-  
25 rary and recurrent or seasonal employment, business,  
26 profession or occupation in this state and maintains  
27 temporary and recurrent or seasonal residence in this state  
28 in connection with such employment, business, profession  
29 or occupation, and any nonresident, including any corpo-  
30 ration carrying on business of a temporary and recurrent  
31 or seasonal nature in this state and owning and tempo-  
32 rarily and recurrently or seasonally operating in such  
33 business any motor vehicle, trailer or semitrailer or mobile  
34 equipment as defined in section one, article one, chapter  
35 seventeen-a of this code, within this state, may operate or  
36 permit the operation of such vehicle within this state  
37 without causing said vehicle to be registered as otherwise  
38 required by article three of this chapter: *Provided*, That  
39 such nonresident, in lieu of registration of such vehicle,  
40 shall make application to the division and receive a  
41 special permit for such vehicle which shall be evidenced  
42 by a metal identification plate and certificate in writing,  
43 which special permit plate and certificate shall together  
44 identify the vehicle for which such special permit and  
45 plate shall issue and such certificate shall bear the name  
46 and address of the owner of such vehicle. Such special  
47 permit shall be issued without previous certification of  
48 title to such vehicle as otherwise required by article three  
49 of this chapter or the provisions of subsection (b) of this  
50 section:

51 (1) Every owner of a vehicle for which such special  
52 permit is desired shall make a verified application to the  
53 division for such special permit upon the appropriate form  
54 or forms furnished by the division and shall bear the  
55 signature of the owner written with pen and ink and shall  
56 contain the character of information called for by section  
57 three, article three of this chapter, a description of the  
58 employment, residence, business and location of such  
59 business set forth in such manner as to show the tempo-

60 rary and recurrent or seasonal nature of such residence,  
61 employment, business, profession or occupation, and that  
62 such vehicle is duly registered in the state of residence of  
63 such owner. There shall be an application for each vehicle  
64 for which a special permit is desired.

65 (2) Any special permit or plate issued by the division  
66 under this section shall be effective and valid for a period  
67 of sixty consecutive days from and including the date of  
68 issuance and, upon similar application by the owner, the  
69 commissioner may renew any such special permit for  
70 immediately ensuing similar period or periods of sixty  
71 days in any fiscal year. The division shall charge a fee of  
72 fifty dollars for each special permit issued under this  
73 section:

74 (A) A special permit shall be issued for one vehicle only  
75 and no combination of two or more vehicles shall be  
76 operated under fewer special permits than the number of  
77 vehicles in such combination. A special permit shall not  
78 be issued for any vehicle which is not duly registered in  
79 the state of residence of the owner thereof.

80 (B) The registration plate issued for such vehicle by the  
81 state of residence of the owner shall not be displayed on  
82 such vehicle while being operated over any highway  
83 during any period for which a special permit shall have  
84 been issued for such vehicle under this section, but there  
85 shall be carried in such vehicle the certificate of registra-  
86 tion issued for such vehicle by the state of residence of  
87 such owner.

88 (C) Any owner of any vehicle making application to  
89 operate such vehicle upon the highways of this state  
90 pursuant to the provisions of this article shall also be  
91 required to comply with the provisions of chapter  
92 seventeen-d of this code prior to commencing such  
93 operation.

94 (3) The commissioner shall prescribe the substance,  
95 form, color and context of the certificate or special permit  
96 and the special permit plate, each of which shall be  
97 visually distinguishable from the certificates of registra-  
98 tion and registration plates issued under article three of

99 this chapter.

100 (4) It is a misdemeanor for any person to drive or move  
101 or knowingly to permit to be moved or driven upon any  
102 highway any vehicle for which a special permit shall have  
103 been issued under this section unless such vehicle shall  
104 bear the special plate called for by the certificate evidenc-  
105 ing such special permit.

106 (5) When the employment, business, profession, occupa-  
107 tion or residence of the owner of a vehicle for which such  
108 special permit shall have been issued shall cease to be  
109 temporary and recurrent or seasonal, any special permit  
110 issued for such vehicle pursuant to this section shall  
111 immediately terminate and become void and such vehicle  
112 shall thereupon become subject to registration under  
113 article three of this chapter or the provisions of subsection  
114 (b) of this section.

115 (6) Any special permit issued pursuant to this section  
116 shall be valid and effective on and after the first day of a  
117 month; that is, such special permit issued between the first  
118 and fifteenth days of a month shall be effective during  
119 sixty consecutive days from and including the first day of  
120 the month in which the permit shall issue; and a special  
121 permit issued after the fifteenth day of any month shall be  
122 effective during sixty consecutive days commencing with  
123 and including the first day of the month next following  
124 the month in which such special permit shall be issued.

125 (d) Any other provision of this section notwithstanding  
126 any nonresident referred to in subsection (c) of this section  
127 who is engaged by a public utility, as the later is defined  
128 in chapter twenty-four of this code, for the exclusive  
129 purpose of restoring the service of said utility as a result  
130 of an emergency in which such service is affected shall be  
131 permitted to operate such motor vehicle, trailer or semi-  
132 trailer or mobile equipment as defined in section one,  
133 article one, chapter seventeen-a of this code, within this  
134 state, without causing said motor vehicle, trailer or  
135 semitrailer or mobile equipment as defined in section one,  
136 article one, chapter seventeen-a of this code to be regis-  
137 tered as otherwise provided by this section and article

138 three of this chapter for the period actually necessary for  
139 such restoration but not to exceed a period of ten consecu-  
140 tive days: *Provided*, That said motor vehicle, trailer or  
141 semitrailer or mobile equipment shall be registered in  
142 another state upon entry into this state. The provisions of  
143 this subsection shall not affect the requirements of  
144 reciprocal agreements with other states accomplished  
145 pursuant to sections ten and ten-a, article two of this  
146 chapter.

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

**§17A-10-1. Classification of vehicles for purpose of registra-  
tion.**

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

4 Class A. Motor vehicles of passenger type and trucks  
5 with a gross weight of not more than eight thousand  
6 pounds, other than those operated for compensation;

7 Class B. Motor vehicles designated as trucks with a gross  
8 weight of more than eight thousand pounds, truck trac-  
9 tors, or road tractors other than those operated for  
10 compensation;

11 Class C. All trailers and semitrailers, except those  
12 operated for compensation, and except house trailers and  
13 trailers or semitrailers designed to be drawn by Class A  
14 motor vehicles and having a gross weight of less than two  
15 thousand pounds;

16 Class E. Motor vehicles designated as trucks, truck  
17 tractors or road tractors operated for transportation of  
18 property for compensation, but being exempt from the  
19 operating jurisdiction of the public service commission,  
20 and for which a statement of exemption has been received  
21 from the public service commission;

22 Class G. Motorcycles and parking enforcement vehicles;

23 Class H. Motor vehicles operated regularly for the  
24 transportation of persons for compensation under a  
25 certificate of convenience and necessity or contract carrier

26 permit issued by the public service commission;

27 Class J. Motor vehicles operated for transportation of  
28 persons for compensation by common carriers, not run-  
29 ning over a regular route or between fixed termini;

30 Class K. Motor vehicles designated as trucks, truck  
31 tractors or road tractors operated for transportation of  
32 property for compensation under a certificate of conve-  
33 nience and necessity or a contract carrier permit issued by  
34 the public service commission;

35 Class L. All trailers and semitrailers used for transpor-  
36 tation of property for compensation;

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

39 Class R. House trailers;

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

43 Class Farm Truck. Motor vehicles designated as trucks  
44 having a minimum gross weight of more than eight  
45 thousand pounds and a maximum gross weight of sixty-  
46 four thousand pounds, used exclusively in the conduct of  
47 a farming business, engaged in the production of agricul-  
48 tural products by means of: (a) The planting, cultivation  
49 and harvesting of agricultural, horticultural, vegetable or  
50 other products of the soil; or (b) the raising, feeding and  
51 care of livestock, poultry, bees and dairy cattle. Such  
52 farm truck shall be used only for the transportation of  
53 agricultural products so produced by the owner thereof, or  
54 for the transportation of agricultural supplies used in such  
55 production, or for private passenger use.

**§17A-10-3. Registration fees for vehicles equipped with pneu-  
matic tires.**

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

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

7 (1) *Class A.* — The registration fee for all motor vehicles  
8 of this class is as follows:

9 (A) For motor vehicles of a weight of three thousand  
10 pounds or less — twenty-five dollars.

11 (B) For motor vehicles of a weight of three thousand one  
12 pounds to four thousand pounds — thirty dollars.

13 (C) For motor vehicles of a weight in excess of four  
14 thousand pounds — thirty-six dollars.

15 (D) For motor vehicles designed as trucks with declared  
16 gross weights of four thousand pounds or less — twenty-  
17 five dollars.

18 (E) For motor vehicles designed as trucks with declared  
19 gross weights of four thousand one pounds to eight  
20 thousand pounds — thirty dollars.

21 For the purpose of determining the weight, the actual  
22 weight of the vehicle shall be taken: *Provided*, That for  
23 vehicles owned by churches, or by trustees for churches,  
24 which vehicles are regularly used for transporting parish-  
25 ioners to and from church services, no license fee shall be  
26 charged, but notwithstanding such exemption, the certifi-  
27 cate of registration and license plates shall be obtained the  
28 same as other cards and plates under this article.

29 (2) *Class B, Class E and Class K.* — The registration fee  
30 for all motor vehicles of these three classes is as follows:

31 (A) For declared gross weights of eight thousand one  
32 pounds to sixteen thousand pounds — twenty-eight  
33 dollars plus five dollars for each one thousand pounds or  
34 fraction thereof that the gross weight of such vehicle or  
35 combination of vehicles exceeds eight thousand pounds.

36 (B) For declared gross weights greater than sixteen  
37 thousand pounds, but less than fifty-five thousand pounds  
38 — seventy-eight dollars and fifty cents plus ten dollars for  
39 each one thousand pounds or fraction thereof that the  
40 gross weight of such vehicle or combination of vehicles



41 exceeds sixteen thousand pounds.

42 (C) For declared gross weights of fifty-five thousand  
43 pounds or more — seven hundred thirty-seven dollars and  
44 fifty cents plus fifteen dollars and seventy-five cents for  
45 each one thousand pounds or fraction thereof that the  
46 gross weight of such vehicle or combination of vehicles  
47 exceeds fifty-five thousand pounds.

48 (3) *Class C and Class L.* — The registration fee for all  
49 vehicles of these two classes is seventeen dollars and fifty  
50 cents except that semitrailers, full trailers, pole trailers  
51 and converter gear registered as Class C and Class L may  
52 be registered for a period of ten years at a fee of one  
53 hundred dollars.

54 (4) *Class G.* — The registration fee for each motorcycle  
55 or parking enforcement vehicle is eight dollars.

56 (5) *Class H.* — The registration fee for all vehicles for  
57 this class operating entirely within the state is five dollars;  
58 and for vehicles engaged in interstate transportation of  
59 persons, the registration fee is the amount of the fees  
60 provided by this section for Class B, Class E and Class K  
61 reduced by the amount that the mileage of such vehicles  
62 operated in states other than West Virginia bears to the  
63 total mileage operated by such vehicles in all states under  
64 a formula to be established by the division of motor  
65 vehicles.

66 (6) *Class J.* — The registration fee for all motor vehicles  
67 of this class is eighty-five dollars. Ambulances and  
68 hearses used exclusively as such are exempt from the  
69 above special fees.

70 (7) *Class M.* — The registration fee for all vehicles of this  
71 class is seventeen dollars and fifty cents.

72 (8) *Class U.* — The registration fee for all vehicles of this  
73 class is fifty-seven dollars and fifty cents.

74 (9) *Class Farm Truck.* — The registration fee for all  
75 motor vehicles of this class is as follows:

76 (A) For farm trucks of declared gross weights of eight

77 thousand one pounds to sixteen thousand pounds — thirty  
78 dollars.

79 (B) For farm trucks of declared gross weights of sixteen  
80 thousand one pounds to twenty-two thousand pounds —  
81 sixty dollars.

82 (C) For farm trucks of declared gross weights of  
83 twenty-two thousand one pounds to twenty-eight thou-  
84 sand pounds — ninety dollars.

85 (D) For farm trucks of declared gross weights of  
86 twenty-eight thousand one pounds to thirty-four thousand  
87 pounds — one hundred fifteen dollars.

88 (E) For farm trucks of declared gross weights of  
89 thirty-four thousand one pounds to forty-four thousand  
90 pounds — one hundred sixty dollars.

91 (F) For farm trucks of declared gross weights of  
92 forty-four thousand one pounds to fifty-four thousand  
93 pounds — two hundred five dollars.

94 (G) For farm trucks of declared gross weights of  
95 fifty-four thousand one pounds to sixty-four thousand  
96 pounds — two hundred fifty dollars.

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

101 (1) *Class R.* — The annual registration fee for all vehicles  
102 of this class is twelve dollars.

103 (2) *Class T.* — The annual registration fee for all vehicles  
104 of this class is eight dollars.

105 (c) The fees paid to the division for a multiyear registra-  
106 tion provided for by this chapter shall be the same as the  
107 annual registration fee established by this section and any  
108 other fee required by this chapter multiplied by the  
109 number of years for which the registration is issued.

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

*Paul Hoover*  
.....  
Chairman Senate Committee

*Neil Fantasia*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Carol E. Thomas*  
.....  
Clerk of the Senate

*Gregory M. Berry*  
.....  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within is approved this the *12th* day of *April*, 1997.

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

Date 4/7/97

Time 3:55 pm

