

**WEST VIRGINIA LEGISLATURE**

**2017 FIRST EXTRAORDINARY SESSION**

**Enrolled**

**Senate Bill 1006**

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND

PREZIOSO

(BY REQUEST OF THE EXECUTIVE)

[Passed June 16, 2017; in effect from passage]



1 AN ACT to amend and reenact §11-14C-5 of the Code of West Virginia, 1931, as amended; to  
2 amend and reenact §11-15-3c and §11-15-18b of said code; to amend and reenact §17A-  
3 2-13 of said code; to amend and reenact §17A-3-4 of said code; to amend and reenact  
4 §17A-4-1 of said code; to amend and reenact §17A-4-10 of said code as contained in  
5 Chapter 152, Acts of the Legislature, Regular Session, 2017; to amend and reenact §17A-  
6 4A-10 of said code; to amend and reenact §17A-7-2 of said code; to amend and reenact  
7 §17A-10-3, §17A-10-10 and §17A-10-11 of said code; to amend said code by adding  
8 thereto a new section, designated §17A-10-3c; to amend and reenact §17B-2-1, §17B-2-  
9 3a, §17B-2-5, §17B-2-6, §17B-2-8 and §17B-2-11 of said code; to amend and reenact  
10 §17C-5A-2a of said code; and to amend and reenact §17D-2-2 of said code, all relating  
11 generally to increasing the funding for the State Road Fund; increasing the minimum  
12 average wholesale price of motor fuels and minimum tax for purposes of the five percent  
13 variable component of motor fuel excise tax as of specified date; increasing the rate of  
14 consumers sales and service tax on sales of motor vehicles as of a specified date; deleting  
15 superfluous language relating to floorstocks; increasing Division of Motor Vehicles  
16 administrative fees, including increasing fees for various documents, records,  
17 registrations, certificates, titles, liens, releases, transfers, cards, stickers, decals, licenses  
18 and plates; requiring payment of certain fee for each attempt at the written and road skills  
19 test; allowing the Division of Motor Vehicles to adjust fees every five years on September  
20 1 based on the U. S. Department of Labor, Bureau of Labor Statistics most current  
21 Consumer Price Index; limiting increase in fees to ten percent; imposing annual  
22 registration fee for certain alternative fuel vehicles; correcting cross-references and  
23 agency title; and specifying effective dates.

*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 §11-15-3c and §11-15-18b of said code be amended and reenacted; that §17A-

3 2-13 of said code be amended and reenacted; that §17A-3-4 of said code be amended and  
4 reenacted; that §17A-4-1 of said code be amended and reenacted; that §17A-4-10 of said code  
5 as contained in Chapter 152, Acts of the Legislature, Regular Session, 2017, be amended and  
6 reenacted; that §17A-4A-10 of said code be amended and reenacted; that §17A-7-2 of said code  
7 be amended and reenacted; that §17A-10-3, §17A-10-10 and §17A-10-11 of said code be  
8 amended and reenacted; that said code be amended by adding thereto a new section, designated  
9 §17A-10-3c; that §17B-2-1, §17B-2-3a, §17B-2-5, §17B-2-6, §17B-2-8 and §17B-2-11 of said  
10 code be amended and reenacted; that §17C-5A-2a of said code be amended and reenacted; and  
11 that §17D-2-2 of 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:  
4 (1) On motor fuel other than alternative fuel, either the tax imposed by section eighteen-  
5 b, article fifteen of this chapter or the tax imposed under section thirteen-a, article fifteen-a of this  
6 chapter, as applicable. The variable component shall be equal to five percent of the average  
7 wholesale price of the motor fuel: *Provided*, That on and after January 1, 2010, the average  
8 wholesale price shall be no less than \$2.34 per invoiced gallon and is computed as hereinafter  
9 prescribed in this section: *Provided, however*, That on and after July 1, 2017, the average  
10 wholesale price of motor fuel may not be determined to be less than \$3.04 per invoiced gallon for  
11 all gallons of motor fuel sold during the reporting period notwithstanding any provision of this code  
12 to the contrary and on and after July 1, 2017, the tax per gallon may not be less than 15.2 cents  
13 per gallon of motor fuel; and

(2) On alternative fuel, either the tax imposed by section eighteen-b, article fifteen of this chapter or the tax imposed under section thirteen-a, article fifteen-a of this chapter, as applicable. The variable component of the tax on alternative fuel shall be equal to five percent of the average wholesale price of the alternative fuel.

*(b) Determination of average wholesale price. —*

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

(2) The “average wholesale price” means the single, statewide average per gallon wholesale price, rounded to the third decimal (thousandth of a cent), exclusive of state and federal excise taxes on each gallon of motor fuel or on each gallon equivalent of alternative fuel as determined by the Tax Commissioner from information furnished by suppliers, importers and distributors of motor fuel and alternative-fuel providers, alternative-fuel bulk end users and retailers of alternative fuel in this state, or other information regarding wholesale selling prices as the Tax Commissioner may gather or a combination of information. On and after January 1, 2010, in no event shall the average wholesale price be determined to be less than \$2.34 per gallon of motor fuel: *Provided*, That on and after July 1, 2017, the average wholesale price may not be determined to be less than \$3.04 per gallon of motor fuel. On and after January 1, 2011, the average wholesale price shall not vary by more than ten percent from the average wholesale price of motor fuel as determined by the Tax Commissioner for the previous calendar year: *Provided*, *however*, That in no case shall the average wholesale price of motor fuel be determined to be

less than \$3.04 per invoiced gallon. Any limitation on the average wholesale price of motor fuel contained in this subsection shall not be applicable to alternative fuel.

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

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

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

(d) The Tax Commissioner shall determine by January 1, 2014, the gasoline gallon equivalent for each alternative fuel by filing a notice of the gasoline gallon equivalent in the State Register and by other means that the Tax Commissioner considers reasonable. The Tax Commissioner may redetermine the gasoline gallon equivalent for each alternative fuel by filing a notice of the gasoline gallon equivalent in the State Register at least thirty days in advance of January 1 for the next succeeding tax year. For purposes of this notice, the Tax Commissioner may adopt or incorporate by reference provisions of the National Institute of Standards and Technology, United States Department of Commerce, the Internal Revenue Code, United States Treasury Regulations, the Internal Revenue Service publications or guidelines or other publications or guidelines which may be useful in determining, setting or describing the gasoline gallon equivalent for each alternative fuel used as motor fuel.

66 (e) *Effective date.* — The amendments to this section enacted during the first extraordinary  
67 session of 2017 shall take effect on July 1, 2017.

## **ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.**

**§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 percent of its sale price, as defined in section two, article fifteen-b of this chapter: *Provided,*  
7 That so much of the sale price or consideration as is represented by the exchange of other  
8 vehicles on which the tax imposed by this section or section four, article three, chapter seventeen-  
9 a of this code has been paid by the purchaser shall be deducted from the total actual sale price  
10 paid for the motor vehicle, whether the motor vehicle be new or used. However, beginning July 1,  
11 2017, the rate of tax imposed by this section shall increase to six percent of the sales price for  
12 purchases of motor vehicles made on and after that date.

13 (c) *Motor vehicles purchased out of state.* — Notwithstanding this article or article fifteen-  
14 a to the contrary, the tax imposed by this section shall apply to all motor vehicles, used as defined  
15 by section one, article fifteen-a of this chapter, within this state, regardless of whether the vehicle  
16 was purchased in a state other than West Virginia.

17 (d) *Definition of sale.* — Notwithstanding any provision of this article or article fifteen-a of  
18 this chapter to the contrary, for purposes of this section, “sale”, “sales” or “selling” means any  
19 transfer or lease of the possession or ownership of a motor vehicle for consideration, including

isolated transactions between individuals not being made in the ordinary course of repeated and successive business and also including casual and occasional sales between individuals not conducted in a repeated manner or in the ordinary course of repetitive and successive transactions.

(e) *Definition of motor vehicle.* — For purposes of this section, “motor vehicle” means every propellable device in or upon which any person or property is or may be transported or drawn upon a highway including, but not limited to: Automobiles; buses; motor homes; motorcycles; motorboats; all-terrain vehicles; snowmobiles; low-speed vehicles; trucks, truck tractors and road tractors having a weight of less than fifty-five thousand pounds; trailers, semitrailers, full trailers, pole trailers and converter gear having a gross weight of less than two thousand pounds; and motorboat trailers, fold-down camping trailers, traveling trailers, house trailers and motor homes; except that the term “motor vehicle” does not include: Modular homes, manufactured homes, mobile homes, similar nonmotive propelled vehicles susceptible of being moved upon the highways but primarily designed for habitation and occupancy; devices operated regularly for the transportation of persons for compensation under a certificate of convenience and necessity or contract carrier permit issued by the Public Service Commission; mobile equipment as defined in section one, article one, chapter seventeen-a of this code; special mobile equipment as defined in section one, article one, chapter seventeen-a of this code; trucks, truck tractors and road tractors having a gross weight of fifty-five thousand pounds or more; trailers, semitrailers, full trailers, pole trailers and converter gear having weight of two thousand pounds or greater: *Provided*, That notwithstanding the provisions of section nine, article fifteen, chapter eleven of this code, the exemption from tax under this section for mobile equipment as defined in section one, article one, chapter seventeen-a of this code; special mobile equipment defined in section one, article one, chapter seventeen-a of this code; Class B trucks, truck tractors and road tractors registered at a gross weight of fifty-five thousand pounds or more; and Class C trailers, semitrailers, full trailers, pole trailers and converter gear having weight of two thousand pounds



or greater does not subject the sale or purchase of the vehicle to the consumers sales and service tax imposed by section three of this article.

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

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

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

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

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

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

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

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

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

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

(B) Presents evidence as the Commissioner of the Division of Motor Vehicles may require of having titled the vehicle in the applicant's previous state of residence;

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

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

(9) On and after January 1, 2009, the tax imposed by this section does not apply to Class B trucks, truck tractors and road tractors registered at a gross weight of fifty-five thousand pounds

or more or to Class C trailers, semitrailers, full trailers, pole trailers and converter gear having a weight of two thousand pounds or greater. If an owner of a vehicle has previously titled the vehicle at a declared gross weight of fifty-five thousand pounds or more and the title was issued without the payment of the tax imposed by this section, then before the owner may obtain registration for the vehicle at a gross weight less than fifty-five thousand pounds, the owner shall surrender to the commissioner the exempted registration, the exempted certificate of title and pay the tax imposed by this section based upon the current market value of the vehicle.

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

(g) *Division of Motor Vehicles to collect.* — Notwithstanding any provision of this article, article fifteen-a and article ten of this chapter to the contrary, the Division of Motor Vehicles shall collect the tax imposed by this section: *Provided*, That such tax is imposed upon the monthly payments for the lease of any motor vehicle leased by a resident of West Virginia, which tax is equal to five percent of the amount of the monthly payment, applied to each payment, and continuing for the entire term of the initial lease period. The tax shall be remitted to the Division of Motor Vehicles on a monthly basis by the lessor of the vehicle.

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

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

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

**§11-15-18b. Tax on motor fuel.**

(a) *General.* — All sales of motor fuel and alternative fuel subject to the flat rate of the tax imposed by section five, article fourteen-c of this chapter, are subject to the tax imposed by this article and comprises the variable component of the tax imposed by section five, article fourteen-c of this chapter and is collected and remitted at the time the tax imposed by said section is remitted. Sales of motor fuel and alternative fuel upon which the tax imposed by this article has been paid is not again taxed under the provisions of this article. This section means that all gallons of motor fuel and equivalent gallons of alternative fuel sold and delivered or delivered in this state are taxed one time.

9           (b) *Measure of tax.* — The measure of tax imposed by this article is as follows:

10           (1) On sales of motor fuel, the average wholesale price as defined and determined in  
11 section five, article fourteen-c of this chapter. For purposes of maintaining revenue for highways,  
12 and recognizing that the tax imposed by this article is generally imposed on gross proceeds from  
13 sales to ultimate consumers, whereas the tax on motor fuel herein is imposed on the average  
14 wholesale price of the motor fuel; in no case, for the purposes of taxation under this article, may  
15 the average wholesale price be determined to be less than 97 cents per gallon of motor fuel for  
16 all gallons of motor fuel sold during the reporting period, notwithstanding any provision of this  
17 article to the contrary. On and after January 1, 2010, for the purpose of taxation under this article,  
18 in no case may the average wholesale price be determined to be less than \$2.34 per gallon of  
19 motor fuel for all gallons of motor fuel sold during the reporting period notwithstanding any  
20 provision of this article to the contrary: *Provided*, That on and after July 1, 2017, in no case may  
21 the average wholesale price be determined to be less than \$3.04 per gallon of motor fuel for all  
22 gallons of motor fuel sold during the reporting period notwithstanding any provision of this article  
23 to the contrary and on and after July 1, 2017, the tax per gallon may not be less than 15.2 cents  
24 per gallon of motor fuel. Any limitation on the average wholesale price of motor fuel contained in  
25 this subsection shall not be applicable to alternative fuel.

26           (2) On sales of alternative fuel, the average wholesale price as defined and determined in  
27 section five, article fourteen-c of this chapter.

28           (c) *Definitions.* — For purposes of this article, the terms “gasoline” and “special fuel” and  
29 “alternative fuel” are defined as provided in section two, article fourteen-c of this chapter. Other  
30 terms used in this section have the same meaning as when used in a similar context in said article.

31           (d) *Tax return and tax due.* —

32           (1) The tax imposed by this article on sales of motor fuel shall be paid by each taxpayer  
33 on or before the last day of the calendar month by check, bank draft, certified check or money  
34 order payable to the Tax Commissioner for the amount of tax due for the preceding month

notwithstanding any provision of this article to the contrary. The commissioner may require all or certain taxpayers to file tax returns and payments electronically. The return required by the commissioner shall accompany the payment of tax. If no tax is due, the return required by the commissioner shall be completed and filed on or before the last day of the month.

(2) The tax due under this article comprising the variable component of the tax due under article fourteen-c of this chapter on alternative fuel, is due and shall be collected and remitted at the time the tax imposed by section five, article fourteen-c of this chapter is due, collected and remitted.

(e) *Compliance.* — To facilitate ease of administration and compliance by taxpayers, the Tax Commissioner shall require persons liable for the tax imposed by this article on sales of motor fuel to file a combined return and make a combined payment of the tax due under this article on sales of motor fuel and the tax due under article fourteen-c of this chapter on motor fuel. In order to encourage use of a combined return each month and the making of a single payment each month for both taxes, the due date of the return and tax due under article fourteen-c of this chapter is the last day of each month notwithstanding any provision in said article to the contrary. The Tax Commissioner may prescribe reporting and payment requirements for tax due under this article on alternative fuel which accommodate the due dates and requirements prescribed in this article and article fourteen-c of this chapter, either under a separate return and payment or a combined return and payment, within the discretion of the Tax Commissioner.

(f) *Dedication of tax.* — All tax collected under the provisions of this section, after deducting the amount of refunds lawfully paid, shall be deposited in the road fund in the State Treasurer's office and used only for the purpose of construction, reconstruction, maintenance and repair of highways and payment of principal and interest on state bonds issued for highway purposes. Notwithstanding any provision to the contrary, tax collected on the sale of aviation fuel after deducting the amount of refunds lawfully paid shall be deposited in the State Treasurer's office and transferred to the state Aeronautical Commission to be used for the purpose of matching

federal funds available for the reconstruction, maintenance and repair of public airports and airport runways.

(g) *Construction.* — This section does not tax a sale of motor fuel which this state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States.

(h) *Effective date.* — The provisions of this section take effect on January 1, 2004. The provisions of this section enacted during the 2007 legislative session take effect on January 1, 2008. The provisions of this section enacted during the 2013 regular legislative session take effect on January 1, 2014. The amendments of this section enacted during the first extraordinary session of 2017 take effect on July 1, 2017.

## **CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION, CERTIFICATE OF TITLE AND ANTI-THEFT PROVISIONS.**

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

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

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

(b) The commissioner and such officers of the division as he or she may designate are hereby authorized to prepare under the seal of the division and deliver upon request in conformance with article two-a of this chapter a certified copy of any record of the division, charging a fee of \$1.50 for each document so authenticated, and every such certified copy is admissible in any proceeding in any court in like manner as the original thereof. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

(c) Subject to the provisions of article two-a of this chapter, the commissioner and such officers of the division as he or she may designate may furnish the requested information to any person making a written request for information regarding the registration of any vehicle at a fee of \$1.50 for each registration about which information is furnished. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

(d) The provisions of this section enacted in 2017 take effect on July 1, 2017.

### **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 consumers sales and service tax provisions; exceptions.**

(a) Certificates of registration of any vehicle or registration plates for the vehicle, whether original issues or duplicates, may not be issued or furnished by the Division of Motor Vehicles or any other officer or agent charged with the duty, unless the applicant already has received, or at the same time makes application for and is granted, an official certificate of title of the vehicle in either an electronic or paper format. The application shall be upon a blank form to be furnished by the Division of Motor Vehicles and shall contain a full description of the vehicle, which description shall contain a manufacturer's serial or identification number or other number as determined by the commissioner and any distinguishing marks, together with a statement of the applicant's title and of any liens or encumbrances upon the vehicle, the names and addresses of the holders of the liens and any other information as the Division of Motor Vehicles may require. The application shall be signed and sworn to by the applicant. A duly certified copy of the division's electronic record of a certificate of title is admissible in any civil, criminal or administrative 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 percent of the value of the motor vehicle at the time of the certification,  
16 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 percent of  
28 the true and actual value of the vehicle whether the vehicle is acquired through purchase, by gift  
29 or by any other manner whatsoever, except gifts between husband and wife or between parents  
30 and children: *Provided*, That the husband or wife, or the parents or children, previously have paid  
31 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.

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

(7) The tax imposed by this section does not apply to titling of vehicles by a registered dealer of this state for resale only, nor does the tax imposed by this section apply to titling of vehicles by this state or any political subdivision thereof, or by any volunteer fire department or duly chartered rescue or ambulance squad organized and incorporated under the laws of this state as a nonprofit corporation for protection of life or property. The total amount of revenue collected by reason of this tax shall be paid into the State Road Fund and expended by the Commissioner of Highways for matching federal funds allocated for West Virginia. In addition to the tax, there is a charge of \$10 for each original certificate of title or duplicate certificate of title so issued: *Provided*, That this state or any political subdivision of this state or any volunteer fire department or duly chartered rescue squad is exempt from payment of the charge. The Division of Motor Vehicles may adjust the fee for each original certificate or duplicate certificate of title every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in the fee may not exceed ten percent of the total fee amount in a single year.

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

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

(10) A person who has paid the tax imposed by this section is not required to pay the tax a second time for the same motor vehicle, but is required to pay a charge of \$10 for the certificate of title of that motor vehicle, except that the tax shall be paid by the person when the title to the vehicle has been transferred either in this or another state from the person to another person and transferred back to the person. The Division of Motor Vehicles may adjust the fee for each original certificate of title every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

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

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

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

transportation of persons and being operated for the transportation of persons in the public interest.

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

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

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

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

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

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

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

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

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

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

(f) Notwithstanding any other provisions of this section, any person in the military stationed outside West Virginia or his or her dependents who possess a motor vehicle with valid registration

are exempt from the provisions of this article for a period of nine months from the date the person returns to this state or the date his or her dependent returns to this state, whichever is later.

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

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

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

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

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

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

(j) The provisions of this section enacted in 2017 take effect on July 1, 2017.

#### **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 \$10, issue a new  
10 certificate showing the use to be made of such plates. The Division of Motor Vehicles may adjust  
11 the fee for each new certificate every five years on September 1, based on the U. S. Department  
12 of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an  
13 increase in such fee may not exceed ten percent of the total fee amount in a single year. Such  
14 plates may then be used by such owner on another vehicle of the same class as the vehicle for  
15 which they were originally issued if such other vehicle does not require a greater license fee than  
16 was required for such original vehicle. If such other vehicle requires a greater license fee than  
17 such original vehicle, then such plates may be used by paying such difference to the  
18 commissioner. When such transfer of ownership is made to a licensed dealer in motor vehicles it  
19 shall be the duty of such dealer to immediately execute notification of transfer, in triplicate, and to  
20 have this notification properly signed by the owner making the transfer. The dealer shall  
21 immediately forward to the department the original copy of the notification of transfer. One copy  
22 of the notification of transfer shall be given to the owner and one shall be retained by the dealer.  
23 The owner shall immediately send to the department the transfer fee of \$10 with any additional



24 fee that may be required under the terms of this chapter. The owner's copy, properly signed by  
25 the dealer, will be the owner's identification until he or she receives a new registration card from  
26 the department.

27 The owner of a set of registration plates may surrender them to the commissioner together  
28 with the registration card and, upon the payment of \$10 as an exchange fee and upon the payment  
29 of such additional fees as are necessary to equalize the value of the plates surrendered with the  
30 value of registration plates desired, receive in exchange a set of plates and registration card for  
31 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. Except as provided  
14 in subsection (p) of this section, within ten days of payment of the total loss claim, the insurance  
15 company or insurer shall surrender the certificate of title, a copy of the claim settlement, a  
16 completed application on a form prescribed by the commissioner and the registration certificate if  
17 the owner has chosen to keep the vehicle to the Division of Motor Vehicles.

(c) If the insurance company or insurer determines that the vehicle is repairable, the division shall issue a salvage certificate, on a form prescribed by the commissioner, in the name of the insurance company, the insurer or the vehicle owner if the owner has chosen to retain the vehicle. The certificate shall contain, on the reverse, spaces for one successive assignment before a new certificate at an additional fee is required. Upon the sale of the vehicle, the insurance company, insurer or vehicle owner if the owner has chosen to retain the vehicle, shall complete the assignment of ownership on the salvage certificate and deliver it to the purchaser. The vehicle may not be titled or registered for operation on the streets or highways of this state unless there is compliance with subsection (h) of this section. The division shall charge a fee of \$22.50 for each salvage title issued. The Division of Motor Vehicles may adjust the fee for each salvage title every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

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

(1) The division shall, without further inspection, issue a title branded "cosmetic total loss" to the insured or claimant owner if the insured or claimant owner wishes to retain possession of the vehicle, in lieu of a salvage certificate. The division shall charge a fee of \$22.50 for each cosmetic total loss title issued. The terms "cosmetically damaged" and "cosmetic total loss" do not include any vehicle which has been damaged by flood or fire. The designation "cosmetic total loss" on a title may not be removed. The Division of Motor Vehicles may adjust the fee for each cosmetic total loss title every five years on September 1, based on the U. S. Department of Labor,

Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

(2) If the insured or claimant owner elects not to take possession of the vehicle and the insurance company or insurer retains possession, the division shall issue a cosmetic total loss salvage certificate to the insurance company or insurer. The division shall charge a fee of \$22.50 for each cosmetic total loss salvage certificate issued. The Division of Motor Vehicles may adjust the fee for each cosmetic total loss salvage certificate every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee amount in a single year. The division shall, upon surrender of the cosmetic total loss salvage certificate issued under the provisions of this paragraph and payment of the five percent motor vehicle sales tax on the fair market value of the vehicle as determined by the commissioner, issue a title branded "cosmetic total loss" without further inspection.

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

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

(g) Any person who purchases or acquires a vehicle as salvage or scrap, to be dismantled, compressed or destroyed, shall, within forty-five days, surrender to the division the certificate of title, nonrepairable motor vehicle certificate, salvage certificate or a statement of cancellation

signed by the seller, on a form prescribed by the commissioner. Subsequent purchasers of salvage or scrap are not required to comply with the notification requirement.

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

(i) The owner or title holder of a motor vehicle titled in this state which has previously been branded in this state or another state as salvage, reconstructed, cosmetic total loss, cosmetic total loss salvage, flood, fire, an equivalent term under another state's laws or a term consistent with the intent of the National Motor Vehicle Title Information System established pursuant to 49 U. S. C. §30502 shall, upon becoming aware of the brand, apply for and receive a title from the Division of Motor Vehicles on which the brand "reconstructed", "salvage", "cosmetic total loss", "cosmetic total loss salvage", "flood", "fire" or other brand is shown. The division shall charge a fee of \$10 for each title so issued. The Division of Motor Vehicles may adjust the fee for each reconstructed, salvage, cosmetic total loss, cosmetic total loss salvage, flood, fire or other brand title issued every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

(j) If application is made for title to a motor vehicle, the title to which has previously been branded reconstructed, salvage, cosmetic total loss, cosmetic total loss salvage, flood, fire or other brand by the Division of Motor Vehicles under this section and said application is accompanied by a title from another state which does not carry the brand, the division shall, before issuing the title, affix the brand "reconstructed", "cosmetic total loss", "cosmetic total loss salvage",

“flood”, “fire” or other brand to the title. The motor vehicle sales tax paid on a motor vehicle titled as reconstructed, cosmetic total loss, flood, fire or other brand under the provisions of this section shall be based on fifty percent of the fair market value of the vehicle as determined by a nationally accepted used car value guide to be used by the commissioner.

(k) The division shall charge a fee of \$22.50 for the issuance of each salvage certificate or cosmetic total loss salvage certificate but shall not require the payment of the five percent motor vehicle sales tax. The Division of Motor Vehicles may adjust the fee for each salvage certificate or cosmetic total loss salvage certificate every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee amount in a single year. However, upon application for a certificate of title for a reconstructed, cosmetic total loss, flood or fire damaged vehicle or other brand, the division shall collect the five percent privilege tax on the fair market value of the vehicle as determined by the commissioner unless the applicant is otherwise exempt from the payment of such privilege tax. A wrecker/dismantler/rebuilder, licensed by the division, is exempt from the payment of the five percent privilege tax upon titling a reconstructed vehicle. The division shall collect a fee of \$35 per vehicle for inspections of reconstructed vehicles. These fees shall be deposited in a special fund created in the State Treasurer’s office and may be expended by the division to carry out the provisions of this article: *Provided*, That on and after July 1, 2007, any balance in the special fund and all fees collected pursuant to this section shall be deposited in the State Road Fund. Licensed wreckers/dismantlers/rebuilders may charge a fee not to exceed \$25 for all vehicles owned by private rebuilders which are inspected at the place of business of a wrecker/dismantler/rebuilder.

(l) As used in this section:

(1) “Reconstructed vehicle” means the vehicle was totaled under the provisions of this section or by the provisions of another state or jurisdiction and has been rebuilt in accordance

with the provisions of this section or in accordance with the provisions of another state or jurisdiction or meets the provisions of subsection (n), section one, article one of this chapter.

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

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

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

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

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

(p) Notwithstanding any other provision of law and with respect to a vehicle which the vehicle owner has not chosen to retain, if an insurance company or insurer is unable to obtain the properly endorsed certificate of title for a motor vehicle within thirty days of the payment of a total loss claim, the insurance company or insurer, at any time thereafter, may apply to the Division of Motor Vehicles for a salvage certificate, a cosmetic total loss salvage certificate or a nonrepairable motor vehicle certificate as applicable. The application shall be accompanied by evidence that

147 the insurance company or insurer has paid a total loss claim on the vehicle, a copy of a written  
148 request for the certificate of title sent to the vehicle owner and any known lienholder by the  
149 insurance company or insurer or a designee of the insurance company or insurer, proof that the  
150 request was sent by certified mail, return receipt requested, to the last known address of the  
151 vehicle owner and any known lienholder, service to be complete upon the mailing thereof, and  
152 the required fee, if applicable. Upon receipt of a properly completed application, the division shall  
153 issue a salvage certificate, a cosmetic total loss salvage certificate or a nonrepairable motor  
154 vehicle certificate, as applicable, in the name of the insurance company or insurer. Such salvage  
155 certificate, cosmetic total loss salvage certificate or nonrepairable motor vehicle certificate shall  
156 be issued free and clear of all liens and claims of ownership.

157 (q) If an insurance company or insurer requests that an automobile auction take  
158 possession of a motor vehicle that is the subject of an insurance claim, and subsequently the  
159 insurance company denies coverage with respect to the motor vehicle or otherwise does not take  
160 ownership of the motor vehicle, the automobile auction may proceed as follows. At any time after  
161 the automobile auction has had possession of the motor vehicle for forty-five days, it may apply  
162 to the division for a salvage certificate or a nonrepairable motor vehicle certificate without  
163 surrendering the certificate of title for the motor vehicle. The application shall be accompanied  
164 by a copy of a written request, on the automobile auction's letterhead, requesting that, upon  
165 payment of applicable charges, the vehicle be removed from the automobile auction's facility,  
166 proof that the request was delivered by a nationally-recognized courier service or by certified mail  
167 to the vehicle owner and any known lienholder at least fifteen days before the date of the  
168 application, and the required fee, if applicable. Upon receipt of a properly completed application,  
169 the division shall issue a salvage certificate or a nonrepairable motor vehicle certificate, as  
170 applicable, in the name of the automobile auction. Such salvage certificate or nonrepairable  
171 motor vehicle certificate shall be issued free and clear of all liens and claims of ownership.

(r) An applicant pursuant to subsection (p) or (q) of this section shall indemnify and hold harmless the Division of Motor Vehicles from any liability arising from an error or misrepresentation made by such applicant in a submission to the division pursuant to subsection (p) or (q) of this section.

(s) The provisions of this article enacted in 2017 take effect on July 1, 2017.

**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.**

The Division of Motor Vehicles is hereby authorized to charge a fee of \$10 for the recording of any lien either in an electronic or paper format created by the voluntary act of the owner and endorsing it upon the title certificate issued pursuant to this article. The Division of Motor Vehicles may adjust the fee for each lien recording every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee amount in a single year. The Division of Motor Vehicles is hereby authorized to charge a fee of \$10 for recordation of any release of a lien created by the voluntary act of the owner. The Division of Motor Vehicles may adjust the fee for each recording of a lien release every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in the fee may not exceed ten percent of the total fee amount in a single year: *Provided, however*, That no charge shall be made for the endorsement and recordation of liens or releases thereof as provided under section nine of this article. No charge shall be made for the issuance of a title to the owner of a vehicle upon the receipt of an electronic release of the final lien.

The provisions of this section enacted in 2017 take effect on July 1, 2017.



## **ARTICLE 7. SPECIAL STICKERS.**

### **§17A-7-2. Operation of motor vehicles by dealers or other persons under special stickers; application and fees; expiration.**

1 (a) A member of the West Virginia State Police may at any detachment office, upon  
2 application therefor on a form prescribed by the commissioner, issue to a licensed dealer or any  
3 other person other than those specified in section one of this article, a paper sticker or decal to  
4 be affixed to the left side of the rear window of a motor vehicle or to the left rear of a vehicle which  
5 is not self-propelled. Such sticker or decal shall be of a size to be designated by the commissioner  
6 and shall be serially numbered and shall have provision thereon to indicate the date of issuance  
7 thereof.

8 (b) A fee of \$10 per sticker shall be collected. The Division of Motor Vehicles may adjust  
9 the fee for each sticker every five years on September 1, based on the U. S. Department of Labor,  
10 Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in  
11 such fee may not exceed ten percent of the total fee amount in a single year. The fees will be  
12 dispersed as follows: Half shall be deposited in the State Road Fund and half shall be deposited  
13 in the special revenue account within the Division of Highways for the maintenance of the West  
14 Virginia welcome centers and rest areas along interstate highways in this state.

15 (c) Such sticker or decal shall be valid for forty-eight hours after its issuance for the  
16 operation of a vehicle, whether under its own power or while being towed, one time only over the  
17 streets or highways, and upon being once affixed to a vehicle shall become invalid for subsequent  
18 use on that or any other vehicle.

19 (d) The provisions of this section enacted in 2017 take effect on July 1, 2017.

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

### **§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:

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

(1) *Class A.* — The registration fee for motor vehicles of this class is \$50. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee amount in a single year: *Provided, however*, That the registration fees and any other fees required by this chapter for Class A vehicles under the optional biennial staggered registration system shall be multiplied by two and paid biennially to the division.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The annual registration fee for a vehicle fueled with hydrogen or natural gas is \$200.

(b) The annual registration fee for a vehicle operating on a combination of electricity and petrochemical fuels is \$100.

(c) The annual registration fee for a vehicle operating exclusively on electricity is \$200.

(d) The fees imposed by this section are 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 \$10 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. The Division of Motor Vehicles may adjust this  
5 fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor  
6 Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not  
7 exceed ten percent of the total fee amount in a single year.

8 A fee of \$10 shall be paid for the transfer of registration from a deceased person to his or  
9 her legal heir or legatee as provided in section five, article four of this chapter. The Division of  
10 Motor Vehicles may adjust this fee every five years on September 1, based on the U. S.  
11 Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*,  
12 That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

13 A fee of \$10 shall be paid for the issuance of a certificate of title. The Division of Motor  
14 Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of  
15 Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase  
16 in such fee may not exceed ten percent of the total fee amount in a single year.

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

1 A fee of \$10 shall be paid for the issuance of duplicate or substitute registration plates,  
2 registration cards or certificates of title. The Division of Motor Vehicles may adjust this fee every  
3 five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics  
4 most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten  
5 percent of the total fee amount in a single year. The provisions of this article enacted in 2017 take  
6 effect on July 1, 2017.

## **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 a motor vehicle  
2 upon a street or highway in this state or upon a subdivision street used by the public generally  
3 unless the person has a valid driver's license issued pursuant to this code for the type or class of  
4 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 a county, municipality  
8 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 means the Class A, B, C or D license described in this section or chapter seventeen-e of  
26 this code or federal law or rule: Provided, That anyone not required to be licensed under the  
27 provisions of chapter seventeen-e of this code and federal law or rule and who operates a motor  
28 vehicle registered or required to be registered as a Class A motor vehicle, as that term is defined  
29 in section one, article ten, chapter seventeen-a of this code, with a gross vehicle weight rating of  
30 less than eight thousand one pounds, is not required to obtain a Class D license.

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

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

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

43 (d) All licenses issued under this section may contain information designating the licensee  
44 as a diabetic, organ donor, as deaf or hard-of-hearing, as having any other handicap or disability  
45 or that the licensee is an honorably discharged veteran of any branch of the Armed Forces of the  
46 United States, according to criteria established by the division, if the licensee requests this  
47 information on the license. An honorably discharged veteran may be issued a replacement license

without charge if the request is made before the expiration date of the current license and the only purpose for receiving the replacement license is to get the veterans designation placed on the license.

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

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

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

(B) Has reached the age of two years or, for good cause shown, under the age of two.

(C) Has paid the required fee of \$5 per year. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee amount in a single year: *Provided, however*, That no fees or charges, including renewal fees, are required if the applicant:

(i) Is sixty-five years or older;

(ii) Is legally blind; or

(iii) Will be at least eighteen years of age at the next general, municipal or special election and intends to use this identification card as a form of identification for voting; and

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

(2) The identification card shall contain the same information as a driver's license except that the identification card shall be clearly marked as an identification card. The division may issue an identification card with less information to persons under the age of sixteen. An



identification card may be renewed annually on application and payment of the fee required by this section.

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

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

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

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

(g) For any person over the age of fifty years who wishes to obtain a driver's license or identification card under the provisions of this section:

(1) A raised seal or stamp on the birth certificate or certified copy of the birth certificate is not required if the issuing jurisdiction does not require one; and

(2) If documents are lacking to prove all changes of name in the history of any such applicant, applicants renewing a driver's license or identification card under the provisions of this section may complete a Name Variance Approval Document as instituted by the division, so long as they can provide:

(A) Proof of identity;

(B) Proof of residency; and

(C) A valid Social Security number.

(3) The division may waive any documents necessary to prove a match between names, so long as the division determines the person is not attempting to:

(A) Change his or her identity;

(B) Assume another person's identity; or

(C) Commit a fraud.

(h) A person over the age of seventy years, or who is on Social Security disability, who wishes to obtain or renew a driver's license or identification card under the provisions of this section, may not be required to furnish a copy of a birth certificate if they can provide:

(1) Proof of identity;

(2) Proof of residency;

(3) A valid Social Security number; and

(4) One of the following identifying items:

(A) A form of military identification, including a DD214 or equivalent;

(B) A U. S. passport, whether valid or expired;

(C) School records, including a yearbook;

(D) A religious document, that in the judgment of the Division is sufficient and authentic to reflect that the person was born in the United States; or

(E) An expired driver's license, employment identification card, or other reliable identification card with a recognizable photograph of the person.

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

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

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

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

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

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

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

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

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

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

(E) Pays a fee of \$7.50, which shall permit the applicant one attempt at the written knowledge test. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer

Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

(2) *Terms and conditions of instruction permit.* — A level one instruction permit issued under the provisions of this section is valid until thirty days after the date the applicant attains the age of eighteen and is not renewable. However, any permit holder who allows his or her permit to expire prior to successfully passing the road skills portion of the driver examination, and who has not committed any offense which requires the suspension, revocation or cancellation of the instruction permit, may reapply for a new instruction permit under the provisions of section six of this article. The division shall immediately revoke the permit upon receipt of a second conviction for a moving violation of traffic regulations and laws of the road or violation of the terms and conditions of a level one instruction permit, which convictions have become final unless a greater penalty is required by this section or any other provision of this code. Any person whose instruction permit has been revoked is disqualified from retesting for a period of ninety days. However, after the expiration of ninety days, the person may retest if otherwise eligible. In addition to all other provisions of this code for which a driver's license may be restricted, suspended, revoked or canceled, the holder of a level one instruction permit may only operate a motor vehicle under the following conditions:

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) Pays a fee of \$7.50 for one attempt. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

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

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

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

(i) Lawful employment;

(ii) A school-sanctioned activity;

(iii) A religious event; or

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

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

(D) For the first six months after issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying any passengers less than twenty years old,

unless these passengers are family members of the licensee; for the second six months after issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying more than one passenger less than twenty years old, unless these passengers are family members of the licensee;

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

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

(G) A holder of a level two intermediate driver's license who is under the age of eighteen years shall be prohibited from using a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. A person violating the provisions of this paragraph is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined \$25; for a second offense be fined \$50; and for a third or subsequent offense be fined \$75.

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

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

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

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

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

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

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

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

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

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



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

(2) Reaches the age of eighteen years; and

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

(B) Pays a fee of \$5 for each year the license is valid. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee amount in a single year. An additional fee of \$.50 shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund established in section twelve, article two, chapter three of this code.

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

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

(a) Any person who is at least fifteen years of age may apply to the division for an instruction permit. However, any person who has not attained the age of eighteen shall comply with the provisions of section three-a of this article. The division may, in its discretion, after the applicant has successfully passed all parts of the examination other than the road skills test, issue to the applicant an instruction permit which entitles the applicant while having the permit in his or her immediate possession to drive a motor vehicle upon the public highways when accompanied by a licensed driver of at least twenty-one years of age, a driver's education or driving school instructor that is acting in an official capacity as an instructor, who is alert and unimpaired or a certified division license examiner acting in an official capacity as an examiner, who is occupying a seat beside the driver.

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

13 (2) Any permit issued to a person who has reached the age of eighteen years is valid for  
14 a period of ninety days. The fee for the instruction permit is \$7.50 for one attempt. The Division  
15 of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S.  
16 Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*,  
17 That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

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

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

30 A motorcycle instruction permit is not renewable, but a qualified applicant may apply for a  
31 new permit. The fee for a motorcycle instruction permit is \$5, which shall be paid into a special  
32 fund in the State Treasury known as the motor vehicle fees fund.

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

1 (a) Every application for an instruction permit or for a driver's license shall be made upon  
2 a form furnished by the division. Every application shall be accompanied by the proper fee and  
3 payment of the fee entitles an applicant under the age of eighteen to not more than two attempts

4 at the written test or not more than one attempt to pass the road skills test. An applicant age  
5 eighteen years or older is entitled to not more than two attempts at the written test or not more  
6 than three attempts to pass the road skills test within a period of ninety days from the date of  
7 issuance of the instruction permit. An applicant who fails either the written test or the road skills  
8 test may not be tested twice within a period of one week.

9 (b) Any applicant who has not been previously licensed must hold an instruction permit for  
10 a minimum of thirty days. For the purposes of this section, the term “previously licensed” means  
11 an applicant who has obtained at least a level two graduated license or junior driver’s license  
12 issued under the provisions of this article or has obtained an equal or greater level of licensure if  
13 previously licensed in another state.

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

**§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

licensee, the full legal name, date of birth, residence address, a brief description and a color photograph of the licensee and either a facsimile of the signature of the licensee or a space upon which the signature of the licensee is written with pen and ink immediately upon receipt of the license. No license is valid until it has been so signed by the licensee.

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

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

(d) The fee for the issuance of a Class E driver's license is \$5 per year for each year the license is valid. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee amount in a single year. The fee for issuance of a Class D driver's license is \$6.25 per year for each year the license is valid. An additional fee of 50 cents shall be collected from the applicant at the time of original issuance or each renewal and the additional fee shall be deposited in the Combined Voter Registration and Driver's Licensing Fund established pursuant to the provisions of section twelve, article two, chapter three of this code. The additional fee for adding a motorcycle endorsement to a driver's license is \$1 per year for each year the license is issued.

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

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

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

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

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

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

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

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

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

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

In the event that an instruction permit or driver's license issued under the provisions of this chapter is lost or destroyed, or if the information contained on the license has changed, the person to whom the permit or license was issued may upon making proper application and upon payment of a fee of \$7.50 obtain a duplicate thereof upon furnishing proof satisfactory to the division that

the permit or license has been lost or destroyed. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

The provisions of this article enacted in 2017 take effect on July 1, 2017.

## **CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.**

### **ARTICLE 5A. ADMINISTRATIVE PROCEDURES FOR SUSPENSION AND REVOCATION OF LICENSES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL, CONTROLLED SUBSTANCES OR DRUGS.**

#### **§17C-5A-2a. Assessment of costs; special account created.**

The Division of Motor Vehicles is hereby authorized and required to assess witness costs at the same rate as witness fees in circuit court and a docket fee of \$15 for each hearing request against any person filing a request for a hearing under section two of this article who fails to appear, fails to have said order rescinded or fails to have said order modified to a lesser period of revocation. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

All fees and costs collected hereunder shall be paid into a special revenue account in the State Treasury: *Provided*, That on and after July 1, 2007, any unexpended balance remaining in the special revolving fund shall be transferred to the Motor Vehicle Fees Fund created under the provisions of section twenty-one, article two, chapter seventeen-a of this code and all further fees and costs collected shall be deposited in that fund. A portion of the funds in the Motor Vehicle Fees Fund may be used to pay or reimburse the various law-enforcement agencies at the same rate as witnesses in circuit court for the travel and appearance of its officers before the

16 commissioner or authorized deputy or agent pursuant to a hearing request under the provisions  
17 of this article. The department shall authorize payment to the law-enforcement agencies from said  
18 account as the fees for a particular hearing request are received from the person against whom  
19 the costs were assessed. The department shall authorize transfer to an appropriate agency  
20 account from the Motor Vehicle Fees Fund to pay costs of registered and certified mailings and  
21 other expenses associated with the conduct of hearings under this article as the docket fee for a  
22 particular hearing request is received from the person against whom the costs were assessed.

23 In the event judicial review results in said order being rescinded or modified to a lesser  
24 period of revocation the costs assessed shall be discharged.

25 The provisions of this section enacted in 2017 take effect on July 1, 2017.

## **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 \$7.50 for each abstract. The Division of Motor Vehicles may adjust this fee every five years  
7 on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current  
8 Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the  
9 total fee amount in a single year.

10 The provisions of this section enacted in 2017 take effect on July 1, 2017.





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

.....  
*Chairman, Senate Committee*

.....  
*Chairman, House Committee*

Originated in the Senate.

In effect from passage.

.....  
*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2017.

.....  
*Governor*