

1 **ENROLLED**

2 **SENATE BILL NO. 608**

3 (By SENATORS BEACH, KLEMPA, PLYMALE, TUCKER AND WILLIAMS)

4
5 [Passed March 12, 2011; in effect ninety days from passage.]
6
7

8 AN ACT to amend and reenact §17A-2-13 of the Code of West Virginia,
9 1931, as amended; to amend and reenact §17-3-1 of said code;
10 to amend a reenact §17A-3-4 of said code; to amend and reenact
11 §17A-4-1 and §17A-4-10 of said code; to amend and reenact
12 §17A-4A-10 of said code; to amend and reenact §17A-10-3, §17A-
13 10-10 and §17A-10-11 of said code; to amend and reenact §17B-
14 2-1, §17B-2-3a, §17B-2-5, §17B-2-6, §17B-2-8 and §17B-2-11 of
15 said code; to amend and reenact §17D-2-2 of said code; and to
16 amend said code by adding thereto a new section, designated
17 §17A-6D-16, all relating regulation of motor vehicles;
18 increasing the fee for vehicle records and the certified
19 record fee; increasing the registration fee for Class A motor
20 vehicles; increasing the fee for the issuance and duplication
21 of various documents by the division including titles,
22 registrations, plates and decals; increasing the fee for
23 recording liens and releases; increasing the vehicle transfer
24 fees; increasing the fee for issuance, duplication and renewal

1 of a driver's license, identification card and motorcycle
2 license; requiring the payment of the fee for each attempt at
3 the written and road skills test; increasing the fee for
4 driving records; providing that licenses issued by the
5 division may contain information designating the licensee as
6 a person who is an honorably discharged veteran of any branch
7 of the armed forces of the United States; providing that the
8 vehicle license cost recovery fee charged by daily passenger
9 rental car companies may be applied to costs incurred the
10 following year; dedicating division of motor vehicles fee
11 increases to maintenance and construction of secondary roads
12 and bridges; providing an additional means to notify the
13 division regarding vehicles scrapped, compressed, dismantled
14 or destroyed and prescribing form; and providing for the use
15 of additional vehicle brands used by other jurisdictions that
16 are consistent with the National Motor Vehicle Title
17 Information System.

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

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

1 of said code be amended and reenacted, and that said code by
2 amended by adding thereto a new section, designated §17A-6D-16,
3 all to read as follows:

4 **§17-3-1. What constitutes fund; payments into fund; use of money**
5 **in fund.**

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

1 proceeds of all taxes imposed upon and collected from any person,
2 firm or corporation and of all taxes or charges imposed upon and
3 collected from any county, district or municipality for the benefit
4 of the fund; the proceeds of all judgments, decrees or awards
5 recovered and collected from any person, firm or corporation for
6 damages done to, or sustained by, any of the state roads or parts
7 thereof; all moneys recovered or received by reason of the
8 violation of any contract respecting the building, construction or
9 maintenance of any state road; all penalties and forfeitures
10 imposed, recovered or received by reason thereof; and any and all
11 other moneys and funds appropriated to, imposed and collected for
12 the benefit of such fund, or collected by virtue of any statute and
13 payable to such fund: *Provided*, That notwithstanding any provisions
14 of this code to the contrary, 50¢ of every license fee paid
15 pursuant to the provisions of subdivision (2), subsection (a),
16 section eight, article two, chapter seventeen-b of this code shall
17 be paid to the special fund established pursuant to the provisions
18 of subsection (a), section twelve, article two, chapter three of
19 this code.

20 When any money is collected from any of the sources aforesaid,
21 it shall be paid into the State Treasury by the officer whose duty
22 it is to collect and account for the same, and credited to the
23 state road fund, and shall be used only for the purposes named in
24 this chapter, which are: (a) To pay the principal and interest due
25 on all state bonds issued for the benefit of said fund, and set
26 aside and appropriated for that purpose; (b) to pay the expenses of

1 the administration of the road department; and (c) to pay the cost
2 of maintenance, construction, reconstruction and improvement of all
3 state roads : *Provided*, that, notwithstanding any provision of this
4 code to the contrary, all revenue generated from the increased fees
5 authorized in chapters seventeen-a, seventeen-b and seventeen-d
6 during the 2011 Regular Session of the Legislature shall be
7 expended for construction and maintenance of roads and bridges on
8 secondary roads: *Provided, however*, that the revenue generated by
9 said fee increases shall not be utilized to supplant or otherwise
10 replace any other funds for secondary roads.

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

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

14 **§17A-2-13. Authority to administer oaths and certify copies of**
15 **records; information as to registration.**

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

20 (b) The commissioner and such officers of the division as he
21 or she may designate are hereby authorized to prepare under the
22 seal of the division and deliver upon request in conformance with
23 article two-a of this chapter a certified copy of any record of the
24 division, charging an additional fee of \$3 for each document so
25 authenticated, and every such certified copy is admissible in any

1 proceeding in any court in like manner as the original thereof.

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

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

10 **§17A-3-4. Application for certificate of title; fees; abolishing**
11 **privilege tax; prohibition of issuance of certificate of title**
12 **without compliance with consumer sales and service tax**
13 **provisions; exceptions.**

14 (a) Certificates of registration of any vehicle or
15 registration plates for the vehicle, whether original issues or
16 duplicates, may not be issued or furnished by the Division of Motor
17 Vehicles or any other officer or agent charged with the duty,
18 unless the applicant already has received, or at the same time
19 makes application for and is granted, an official certificate of
20 title of the vehicle in either an electronic or paper format. The
21 application shall be upon a blank form to be furnished by the
22 Division of Motor Vehicles and shall contain a full description of
23 the vehicle, which description shall contain a manufacturer's
24 serial or identification number or other number as determined by
25 the commissioner and any distinguishing marks, together with a

1 statement of the applicant's title and of any liens or encumbrances
2 upon the vehicle, the names and addresses of the holders of the
3 liens and any other information as the Division of Motor Vehicles
4 may require. The application shall be signed and sworn to by the
5 applicant. A duly certified copy of the division's electronic
6 record of a certificate of title is admissible in any civil,
7 criminal or administrative proceeding in this state as evidence of
8 ownership.

9 (b) A tax is imposed upon the privilege of effecting the
10 certification of title of each vehicle in the amount equal to five
11 percent of the value of the motor vehicle at the time of the
12 certification, to be assessed as follows:

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

1 (2) No certificate of title for any vehicle may be issued to
2 any applicant unless the applicant has paid to the Division of
3 Motor Vehicles the tax imposed by this section which is five
4 percent of the true and actual value of the vehicle whether the
5 vehicle is acquired through purchase, by gift or by any other
6 manner whatsoever, except gifts between husband and wife or between
7 parents and children: Provided, That the husband or wife, or the
8 parents or children, previously have paid the tax on the vehicles
9 transferred to the State of West Virginia.

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

22 (4) The Division of Motor Vehicles shall issue a certificate
23 of registration and title to an applicant without payment of the
24 tax imposed by this section if the applicant is a corporation,
25 partnership or limited liability company transferring the vehicle
26 to another corporation, partnership or limited liability company

1 when the entities involved in the transfer are members of the same
2 controlled group and the transferring entity has previously paid
3 the tax on the vehicle transferred. For the purposes of this
4 section, control means ownership, directly or indirectly, of stock
5 or equity interests possessing fifty percent or more of the total
6 combined voting power of all classes of the stock of a corporation
7 or equity interests of a partnership or limited liability company
8 entitled to vote or ownership, directly or indirectly, of stock or
9 equity interests possessing fifty percent or more of the value of
10 the corporation, partnership or limited liability company.

11 (5) The tax imposed by this section does not apply to vehicles
12 to be registered as Class H vehicles or Class M vehicles, as
13 defined in section one, article ten of this chapter, which are used
14 or to be used in interstate commerce. Nor does the tax imposed by
15 this section apply to the titling of Class B vehicles registered at
16 a gross weight of fifty-five thousand pounds or more, or to the
17 titling of Class C semitrailers, full trailers, pole trailers and
18 converter gear: Provided, That if an owner of a vehicle has
19 previously titled the vehicle at a declared gross weight of
20 fifty-five thousand pounds or more and the title was issued without
21 the payment of the tax imposed by this section, then before the
22 owner may obtain registration for the vehicle at a gross weight
23 less than fifty-five thousand pounds, the owner shall surrender to
24 the commissioner the exempted registration, the exempted
25 certificate of title and pay the tax imposed by this section based
26 upon the current market value of the vehicle: Provided, however,

1 That notwithstanding the provisions of section nine, article
2 fifteen, chapter eleven of this code, the exemption from tax under
3 this section for Class B vehicles in excess of fifty-five thousand
4 pounds and Class C semitrailers, full trailers, pole trailers and
5 converter gear does not subject the sale or purchase of the
6 vehicles to the consumers sales and service tax.

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

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

1 Provided, That this state or any political subdivision of this
2 state or any volunteer fire department or duly chartered rescue
3 squad is exempt from payment of the charge.

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

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

12 (10) A person who has paid the tax imposed by this section is
13 not required to pay the tax a second time for the same motor
14 vehicle, but is required to pay a charge of \$21 for the certificate
15 of retitling of that motor vehicle, except that the tax shall be paid
16 by the person when the title to the vehicle has been transferred
17 either in this or another state from the person to another person
18 and transferred back to the person.

19 (11) The tax imposed by this section does not apply to any
20 passenger vehicle offered for rent in the normal course of business
21 by a daily passenger rental car business as licensed under the
22 provisions of article six-d of this chapter. For purposes of this
23 section, a daily passenger car means a Class A motor vehicle having
24 a gross weight of eight thousand pounds or less and is registered
25 in this state or any other state. In lieu of the tax imposed by
26 this section, there is hereby imposed a tax of not less than \$1 nor

1 more than \$1.50 for each day or part of the rental period. The
2 commissioner shall propose an emergency rule in accordance with the
3 provisions of article three, chapter twenty-nine-a of this code to
4 establish this tax.

5 (12) The tax imposed by this article does not apply to the
6 titling of any vehicle purchased by a senior citizen service
7 organization which is exempt from the payment of income taxes under
8 the United States Internal Revenue Code, § Title 26 U.S.C. §
9 501(c) (3) and which is recognized to be a bona fide senior citizen
10 service organization by the senior services bureau existing under
11 the provisions of article five, chapter sixteen of this code.

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

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

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

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

1 residence;

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

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

16 (c) Notwithstanding any provisions of this code to the
17 contrary, the owners of trailers, semitrailers, recreational
18 vehicles and other vehicles not subject to the certificate of title
19 tax prior to the enactment of this chapter are subject to the
20 privilege tax imposed by this section: Provided, That the
21 certification of title of any recreational vehicle owned by the
22 applicant on the thirtieth day of June, one thousand nine hundred
23 eighty-nine, is not subject to the tax imposed by this section:
24 Provided, however, That mobile homes, manufactured homes, modular
25 homes and similar nonmotive propelled vehicles, except recreational
26 vehicles and house trailers, susceptible of being moved upon the

1 highways but primarily designed for habitation and occupancy,
2 rather than for transporting persons or property, or any vehicle
3 operated on a nonprofit basis and used exclusively for the
4 transportation of mentally retarded or physically handicapped
5 children when the application for certificate of registration for
6 the vehicle is accompanied by an affidavit stating that the vehicle
7 will be operated on a nonprofit basis and used exclusively for the
8 transportation of mentally retarded and physically handicapped
9 children, are not subject to the tax imposed by this section, but
10 are taxable under the provisions of articles fifteen and fifteen-a,
11 chapter eleven of this code.

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

20 (e) Any person making any affidavit required under any
21 provision of this section who knowingly swears falsely, or any
22 person who counsels, advises, aids or abets another in the
23 commission of false swearing, or any person, while acting as an
24 agent of the Division of Motor Vehicles, issues a vehicle
25 registration without first collecting the fees and taxes or fails
26 to perform any other duty required by this chapter or chapter

1 eleven of this code to be performed before a vehicle registration
2 is issued is, on the first offense, guilty of a misdemeanor and,
3 upon conviction thereof, shall be fined not more than \$500 or be
4 confined in jail for a period not to exceed six months or, in the
5 discretion of the court, both fined and confined. For a second or
6 any subsequent conviction within five years, that person is guilty
7 of a felony and, upon conviction thereof, shall be fined not more
8 than \$5,000 or be imprisoned in a state correctional facility for
9 not less than one year nor more than five years or, in the
10 discretion of the court, both fined and imprisoned.

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

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

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

1 year, or both fined and confined.

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

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

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

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

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

22 **§17A-4-1. Registration expires on transfer by owner; transfer,**
23 **surrender or retention of plates.**

24 Whenever the owner of a registered vehicle transfers or
25 assigns his title, or interest thereto, the registration of such

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

1 immediately send to the division the transfer fee of \$6 with any
2 additional fee that may be required under the terms of this
3 chapter. The owner's copy, properly signed by the dealer, will be
4 the owner's identification until he receives a new registration
5 card from the division.

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

13 **§17A-4-10. Salvage certificates for certain wrecked or damaged**
14 **vehicles; fee; penalty.**

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

1 shall also require the owner to surrender the vehicle registration
2 certificate. The term "total loss" means a motor vehicle which has
3 sustained damages equivalent to seventy-five percent or more of the
4 market value as determined by a nationally accepted used car value
5 guide or meets the definition of a flood-damaged vehicle as defined
6 in this section.

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

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

1 is compliance with subsection (g) of this section. The division
2 shall charge a fee of \$21 for each salvage title issued.

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

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

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

1 the cosmetic total loss salvage certificate issued under the
2 provisions of this paragraph and payment of the five percent
3 consumers sales tax on the fair market value of the vehicle as
4 determined by the commissioner, issue a title branded "cosmetic
5 total loss" without further inspection.

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

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

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

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

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

15 (i) The owner or title holder of a motor vehicle titled in
16 this state which has previously been branded in this state or
17 another state as "salvage", "reconstructed", "cosmetic total loss",
18 "cosmetic total loss salvage", "flood" or "fire", an equivalent
19 term under another state's laws or a term consistent with the
20 intent of the National Motor Vehicle Title Information System
21 established pursuant to 49 U.S.C. §30502 shall, upon becoming
22 aware of the brand, apply for and receive a title from the Division
23 of Motor Vehicles on which the brand "reconstructed", "salvage",
24 "cosmetic total loss", "cosmetic total loss salvage", "flood",
25 "fire" or other brand is shown. The division shall charge a fee of
26 \$21 for each title so issued.

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

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

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

10 (1) As used in this section:

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

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

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

25 (m) Every vehicle owner shall comply with the branding
26 requirements for a totaled vehicle whether or not the owner

1 receives an insurance claim settlement for a totaled vehicle.

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

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

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

18 **§17A-4A-10. Fee for recording and release of lien.**

19 The Division of Motor Vehicles shall charge a fee of \$13 for
20 the recording of any lien either in an electronic or paper format
21 created by the voluntary act of the owner and endorsing it upon the
22 title certificate issued pursuant to this article, and the Division
23 of Motor Vehicles shall charge a fee of \$13 for recordation of any
24 release of a lien created by the voluntary act of the owner:
25 Provided, That no charge shall be made for the endorsement and

1 recordation of liens or releases thereof as provided under section
2 nine of this article. No charge shall be made for the issuance of
3 a title to the owner of a vehicle upon the receipt of an electronic
4 release of the final lien.

5 **ARTICLE 6D. DAILY PASSENGER RENTAL CAR BUSINESS.**

6 **§17A-6D-16. Vehicle license cost recovery fee charged by daily**
7 **passenger rental car company.**

8 (a) As used in this section:

9 (1) "Vehicle license costs" means the costs incurred by a
10 daily passenger rental car company for licensing, titling,
11 registration, property tax, plating, and inspecting rental motor
12 vehicles; and

13 (2) "Vehicle license cost recovery free" means a charge on a
14 vehicle rental transaction originating within this state that is
15 separately stated on the rental agreement to recover vehicle
16 license costs.

17 (b) *Method for vehicle cost recovery.*

18 (1) If a daily passenger car rental company includes a vehicle
19 license cost recovery free as a separately stated charge in a
20 rental transaction, the amount of the fee shall represent the
21 company's good-faith estimate of the daily passenger rental car
22 daily charge to recover its actual total annual vehicle license
23 costs.

24 (2) If the total amount of the vehicle license cost recovery
25 fees collected by a daily passenger rental car company under this

1 section in any calendar year exceeds the company's actual vehicle
2 license costs, the daily passenger car rental company shall:

3 (A) Retain the excess amount; and

4 (B) Adjust the vehicle cost recovery fee for the following
5 calendar year by a corresponding amount.

6 (c) Nothing in this section shall prevent a daily passenger
7 car rental company from including, or making adjustments during the
8 calendar year to, separately stated surcharges, fees, or charges in
9 the rental agreement, which may include but are not limited to
10 vehicle license cost recovery fees, airport access fees, airport
11 concession fees, consolidated facility charges, and all applicable
12 taxes.

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

14 **§17A-10-3. Registration fees for vehicles equipped with pneumatic**
15 **tires.**

16 The following registration fees for the classes indicated
17 shall be paid to the division for the registration of vehicles
18 subject to registration under this chapter when equipped with
19 pneumatic tires:

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

22 (1) Class A.--The registration fee for all motor vehicles of
23 this class is \$45.00.

24 The registration fees and any other fees required by this
25 chapter for Class A vehicles under the optional biennial staggered

1 registration system shall be multiplied by two and paid biennially
2 to the division.

3 No license fee may be charged for vehicles owned by churches,
4 or by trustees for churches, which are regularly used for
5 transporting parishioners to and from church services.

6 Notwithstanding the exemption, the certificate of registration and
7 license plates shall be obtained the same as other cards and plates
8 under this article.

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

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

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

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

25 (3) Class G.--The registration fee for each motorcycle or
26 parking enforcement vehicle is \$8: Provided, That the registration

1 fee and any other fees required by this chapter for Class G
2 vehicles shall be for at least one year and under an optional
3 biennial registration system the annual fee shall be multiplied by
4 two and paid biennially to the division.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (d) The registration fee for all Class C vehicles is \$50. On

1 or before July 1, 2000, all Class C trailers shall be registered
2 for the duration of the owner's interest in the trailer and do not
3 expire until either sold or otherwise permanently removed from the
4 service of the owner: Provided, That a registrant may transfer a
5 Class C registration plate from a trailer owned less than thirty
6 days to another Class C trailer titled in the name of the
7 registrant upon payment of the transfer fee prescribed in section
8 ten of this article.

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

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

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

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

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

24 A fee of \$5 shall be paid for the issuance of duplicate or
25 substitute registration cards. A fee of \$15 shall be paid for the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **§17B-2-3a. Graduated driver's license.**

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

26 (b) Any person under the age of twenty-one, regardless of

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

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

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

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

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

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

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

4 (E) Pays a fee of \$5 which shall permit the applicant one
5 attempt at the written knowledge test.

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

1 vehicle under the following conditions:

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

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

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

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

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

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

1 for a third or subsequent offense be fined \$75.

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

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

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

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

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

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

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

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

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

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

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

18 (i) Lawful employment;

19 (ii) A school-sanctioned activity;

20 (iii) A religious event; or

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

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

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

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

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

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

25 (H) Upon the first conviction for a moving traffic violation
26 or a violation of paragraph (A), (B), (C), (D) or (G), subdivision

1 (1), subsection (d) of this section of the terms and conditions of
2 a level two intermediate driver's license, the licensee shall
3 enroll in an approved driver improvement program unless a greater
4 penalty is required by this section or by any other provision of
5 this code; and

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

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

25 (e) Level three, full Class E license.--The level three
26 license is valid until thirty days after the date the licensee

1 attains his or her twenty-first birthday. Unless otherwise
2 provided in this section or any other section of this code, the
3 holder of a level three full Class E license is subject to the same
4 terms and conditions as the holder of a regular Class E driver's
5 license.

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

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

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

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

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

20 (D) Pays a fee of \$6.50 for each year the license is valid.

21 An additional fee of \$.50 shall be collected to be deposited in the
22 Combined Voter Registration and Driver's Licensing Fund established
23 in section twelve, article two, chapter three of this code;

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

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

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

4 (B) Pays a fee of \$6.50 for each year the license is valid.

5 An additional fee of \$.50 shall be collected to be deposited in the
6 Combined Voter Registration and Driver's Licensing Fund established
7 in section twelve, article two, chapter three of this code.

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

13 **§17B-2-5. Qualifications, issuance and fee for instruction**
14 **permits.**

15 (a) Any person who is at least fifteen years of age may apply
16 to the division for an instruction permit. However, any person who
17 has not attained the age of eighteen shall comply with the
18 provisions of section three-a of this article. The division may,
19 in its discretion, after the applicant has successfully passed all
20 parts of the examination other than the road skills test, issue to
21 the applicant an instruction permit which entitles the applicant
22 while having the permit in his or her immediate possession to drive
23 a motor vehicle upon the public highways when accompanied by a
24 licensed driver of at least twenty-one years of age, a driver's
25 education or driving school instructor that is acting in an

1 official capacity as an instructor, who is alert and unimpaired or
2 a certified division license examiner acting in an official
3 capacity as an examiner, who is occupying a seat beside the driver.

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

7 (2) Any permit issued to a person who has reached the age of
8 eighteen years is valid for a period of ninety days. The fee for
9 the instruction permit is \$5.

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

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

26 A motorcycle instruction permit is not renewable, but a

1 qualified applicant may apply for a new permit. The fee for a
2 motorcycle instruction permit is \$5, which shall be paid into a
3 special fund in the state treasury known as the motor vehicle fees
4 fund.

5 **§17B-2-6. Application for license or instruction permit; fee to**
6 **accompany application.**

7 (a) Every application for an instruction permit or for a
8 driver's license shall be made upon a form furnished by the
9 division. Every application shall be accompanied by the proper fee
10 and payment of the fee shall entitle an applicant under the age of
11 eighteen to one attempt at the written test or one attempt at the
12 road skills test. An applicant age eighteen years or older is
13 entitled to one attempt at the written test or one attempt at the
14 road skills test per payment of the proper fee. An applicant who
15 fails either the written test or the road skills test may not be
16 tested twice within a period of one week. An instruction permit
17 holder is eligible for additional attempts at passing the written
18 test or road skills test upon payment of a fee of \$5 for each
19 attempt.

20 (b) Any applicant who has not been previously licensed must
21 hold an instruction permit for a minimum of thirty days. For the
22 purposes of this section, the term "previously licensed" means an
23 applicant who has obtained at least a level one graduated license
24 or junior driver's license issued under the provisions of this
25 article or has obtained an equal or greater level of licensure if

1 previously licensed in another state.

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

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

18 (a) The division shall, upon payment of the required fee,
19 issue to every applicant qualifying therefor a driver's license,
20 which shall indicate the type or general class or classes of
21 vehicle or vehicles the licensee may operate in accordance with
22 this chapter or chapter seventeen-e of this code, or
23 motorcycle-only license. Each license shall contain a coded number
24 assigned to the licensee, the full legal name, date of birth,
25 residence address, a brief description and a color photograph of
26 the licensee and either a facsimile of the signature of the

1 licensee or a space upon which the signature of the licensee shall
2 be written with pen and ink immediately upon receipt of the
3 license. No license is valid until it has been so signed by the
4 licensee.

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

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

12 (d) The fee for the issuance of a Class E driver's license is
13 \$6.50 per year for each year the license is issued to be valid.
14 The fee for issuance of a Class D driver's license is six dollars
15 and twenty-five cents per year for each year the license is issued
16 to be valid. An additional fee of fifty cents shall be collected
17 from the applicant at the time of original issuance or each renewal
18 and the additional fee shall be deposited in the "combined voter
19 registration and driver's licensing fund," established pursuant to
20 the provisions of section twelve, article two, chapter three of
21 this code. The additional fee for adding a motorcycle endorsement
22 to a driver's license is one dollar per year for each year the
23 license is issued.

24 (e) The fee for issuance of a motorcycle-only license is \$6.50
25 for each year for which the motorcycle license is to be valid. The
26 fees for the motorcycle endorsement or motorcycle-only license

1 shall be paid into a special fund in the State Treasury known as
2 the Motorcycle Safety Fund as established in section seven, article
3 one-d of this chapter.

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

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

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

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

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

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

20 **§17B-2-11. Duplicate permits and licenses.**

21 In the event that an instruction permit or driver's license
22 issued under the provisions of this chapter is lost or destroyed,
23 or if the information contained on the license has changed, the
24 person to whom the permit or license was issued may upon making
25 proper application and upon payment of a fee of \$15 obtain a
26 duplicate thereof upon furnishing proof satisfactory to the

1 division that the permit or license has been lost or destroyed.

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

3 **ARTICLE 2. ADMINISTRATION OF LAW.**

4 **§17D-2-2. Commissioner to furnish abstract of operating record;**
5 **fee for abstract.**

6 The commissioner shall upon request and subject to the
7 provisions of article two-a, chapter seventeen-a of this code,
8 furnish any person a certified abstract of the operating record of
9 any person subject to the provisions of this chapter, and if there
10 is no record of any conviction of the person of a violation of any
11 law relating to the operation of a motor vehicle or of any injury
12 or damage caused by the person, the commissioner shall so certify.
13 The commissioner shall collect \$5 for each abstract. For calendar
14 year 2012, the commissioner shall collect \$7.50 for each abstract.
15 Beginning January 1, 2013, the commissioner shall collect \$10 for
16 each abstract: *Provided*, That an auto insurer domiciled the state
17 of West Virginia shall pay no more than \$10 for each abstract,
18 including any administrative fee arising from the transaction.