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**H. B. 2150**

(By Delegates Shaver and Williams)

[Introduced January 12, 2011; referred to the  
Committee on Roads and Transportation then the Judiciary.]

10 A BILL to amend and reenact §17A-1-1 of the Code of West Virginia,  
11 1931, as amended; to amend and reenact §17A-3-4 and §17A-3-7  
12 of said code; to amend and reenact §17A-3A-2 and §17A-3A-3 of  
13 said code; to amend and reenact §17A-4-3 of said code; and to  
14 amend said code by adding thereto a new section, designated  
15 §17A-10-1a, all relating to registration and operation of mini  
16 trucks.

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

18 That §17A-1-1 of the Code of West Virginia, 1931, as amended,  
19 be amended and reenacted; that §17A-3-4 and §17A-3-7 of said code  
20 be amended and reenacted; that §17A-3A-2 and §17A-3A-3 of said code  
21 be amended and reenacted; that §17A-4-3 of said code be amended and  
22 reenacted; and to amend said code by adding thereto a new section,  
23 designated §17A-10-1a, all to read as follows:

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

1 **§17A-1-1. Definitions.**

2 Except as otherwise provided in this chapter, the following  
3 words and phrases, when used in this chapter, ~~shall~~ have the  
4 following meanings: ~~respectively ascribed to them in this article:~~

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

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

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

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

21 (e) "Bus" means every motor vehicle designed to carry more  
22 than seven passengers and used to transport persons and every motor  
23 vehicle, other than a taxicab, designed and used to transport  
24 persons for compensation.

1 (f) "Truck tractor" means every motor vehicle designed and  
2 used primarily for drawing other vehicles and not so constructed as  
3 to carry a load other than a part of the weight of the vehicle and  
4 load ~~so~~ drawn.

5 (g) "Farm tractor" means every motor vehicle designed and used  
6 primarily as a farm implement for drawing plows, mowing machines  
7 and other implements of husbandry.

8 (h) "Road tractor" means every motor vehicle designed, used or  
9 maintained for drawing other vehicles and not so constructed as to  
10 carry any load ~~thereon~~ either independently or any part of the  
11 weight of a vehicle or load ~~so~~ drawn.

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

14 (j) "Trailer" means every vehicle with or without motive power  
15 designed for carrying persons or property and for being drawn by a  
16 motor vehicle and so constructed that no part of its weight rests  
17 upon the towing vehicle, ~~but~~ excluding recreational vehicles.

18 (k) "Semitrailer" means every vehicle with or without motive  
19 power designed for carrying persons or property and for being drawn  
20 by a motor vehicle and so constructed that some part of its weight  
21 and ~~that~~ of its load rests upon or is carried by another vehicle.

22 (l) "Pole trailer" means every vehicle without motive power  
23 designed to be drawn by another vehicle and attached to the towing  
24 vehicle by means of a reach, ~~or~~ a pole or by being boomed or

1 otherwise secured to the towing vehicle and ordinarily used for  
2 transporting long or irregularly shaped loads such as poles, pipes  
3 or structural members capable, generally, of sustaining themselves  
4 as beams between the supporting connections.

5 (m) "Specially constructed vehicles" means every vehicle of a  
6 type required to be registered hereunder not originally constructed  
7 under a distinctive name, make, model or type by a generally  
8 recognized manufacturer of vehicles and not materially altered from  
9 its original construction.

10 (n) "Reconstructed vehicle" means every vehicle of a type  
11 required to be registered hereunder materially altered from its  
12 original construction by the removal, addition or substitution of  
13 essential parts, new or used.

14 (o) "Essential parts" means all integral and body parts of a  
15 vehicle of a type required to be registered hereunder, the removal,  
16 alteration or substitution of which would tend to conceal the  
17 identity of the vehicle or substantially alter its appearance,  
18 model, type or mode of operation.

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

24 (q) "Implement of husbandry" means every vehicle which is

1 designed for or adapted to agricultural purposes and used by the  
2 owner ~~thereof~~ primarily in the conduct of his or her agricultural  
3 operations, including, but not limited to, trucks used for spraying  
4 trees and plants: *Provided*, That the vehicle may not be let for  
5 hire at any time.

6 (r) "Special mobile equipment" means every self-propelled  
7 vehicle not designed or used primarily for the transportation of  
8 persons or property and incidentally operated or moved over the  
9 highways, including, without limitation, road construction or  
10 maintenance machinery, ditch-digging apparatus, stone crushers, air  
11 compressors, power shovels, graders, rollers, well-drillers, wood-  
12 sawing equipment, asphalt spreaders, bituminous mixers, bucket  
13 loaders, ditchers, leveling graders, finishing machines, motor  
14 graders, road rollers, scarifiers, earth-moving carryalls,  
15 scrapers, drag lines, rock-drilling equipment and earth-moving  
16 equipment. ~~The foregoing~~ This enumeration ~~shall be deemed is~~  
17 partial and ~~may not operate to~~ does not exclude other ~~such~~  
18 ~~which are~~ within the general terms of this subdivision.

19 (s) "Pneumatic tire" means every tire in which compressed air  
20 is designed to support the load.

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

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

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

3 (v) "Commissioner" means the Commissioner of Motor Vehicles of  
4 this state.

5 (w) "Division" means the Division of Motor Vehicles of this  
6 state acting directly or through its duly authorized officers and  
7 agents.

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

10 (y) "Owner" means a person who holds the legal title to a  
11 vehicle. ~~or in the event~~ If a vehicle is the subject of an  
12 agreement for ~~the~~ a conditional sale or lease ~~thereof~~ with the  
13 right of purchase upon performance of ~~the~~ conditions stated in the  
14 agreement and with an immediate right of possession vested in the  
15 conditional vendee or lessee or ~~in the event~~ if a mortgagor of a  
16 vehicle is entitled to possession, then the conditional vendee, ~~or~~  
17 lessee or mortgagor ~~shall be deemed~~ is the owner for the purpose of  
18 this chapter.

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

21 (aa) "Dealer" or "dealers" is a general term meaning,  
22 depending upon the context, ~~in which used, either~~ a new motor  
23 vehicle dealer, used motor vehicle dealer, factory-built home  
24 dealer, recreational vehicle dealer, trailer dealer or motorcycle

1 dealer as defined in section one, article six of this chapter. ~~or~~  
2 The term may mean all of the dealers or a combination ~~thereof~~ and,  
3 in some instances, a new motor vehicle dealer or dealers in another  
4 state.

5 (bb) "Registered dealer" or "registered dealers" is a general  
6 term meaning, depending upon the context, ~~in which used, either~~ a  
7 new motor vehicle dealer, used motor vehicle dealer, house trailer  
8 dealer, trailer dealer, recreational vehicle dealer, ~~or~~ motorcycle  
9 dealer, ~~or~~ all of the dealers or a combination ~~thereof~~ of dealers,  
10 licensed under the provisions of article six of this chapter.

11 (cc) "Licensed dealer" or "licensed dealers" is a general term  
12 meaning, depending upon the context, ~~in which used, either~~ a new  
13 motor vehicle dealer, used motor vehicle dealer, house trailer  
14 dealer, trailer dealer, recreational vehicle dealer, ~~or~~ motorcycle  
15 dealer, ~~or~~ all of the dealers or a combination ~~thereof~~, of dealers,  
16 licensed under the provisions of article six of this chapter.

17 (dd) "Transporter" means every person engaged in the business  
18 of delivering vehicles of a type required to be registered  
19 hereunder from a manufacturing, assembling or distributing plant to  
20 dealers or sales agents of a manufacturer.

21 (ee) "Manufacturer" means every person engaged in the business  
22 of constructing or assembling vehicles of a type required to be  
23 registered hereunder at a place of business in this state which is  
24 ~~actually~~ occupied either continuously or at regular periods by the

1 manufacturer where his or her books and records are kept and a  
2 large share of his or her business is transacted.

3 (ff) "Street" or "highway" means the entire width between  
4 boundary lines of every way publicly maintained when any part  
5 ~~thereof is open to the use of the public~~ is open for public use  
6 for purposes of vehicular travel.

7 (gg) "Motorboat" means any vessel propelled by an electrical,  
8 steam, gas, diesel or other fuel propelled or driven motor, whether  
9 or not the motor is the principal source of propulsion, but may not  
10 include a vessel which has a valid marine document issued by the  
11 Bureau of Customs of the United States government or ~~any federal~~  
12 ~~agency successor thereto.~~ federal agency successor.

13 (hh) "Motorboat trailer" means every vehicle designed for or  
14 ordinarily used for the transportation of a motorboat.

15 (ii) "All-terrain vehicle" (ATV) means any motor vehicle  
16 designed for off-highway use having a seat or saddle designed to be  
17 straddled by the operator and handlebars for steering control.

18 (jj) "Travel trailer" means every vehicle, mounted on wheels,  
19 designed to provide temporary living quarters for recreational,  
20 camping or travel use; of ~~such a~~ size or weight ~~as not to require~~  
21 that does not require special highway movement permits when towed  
22 by a motor vehicle; and of gross trailer area less than four  
23 hundred square feet.

24 (kk) "Fold down camping trailer" means every vehicle



1 consisting of a portable unit mounted on wheels and constructed  
2 with collapsible partial sidewalls which fold for towing by another  
3 vehicle and unfold at the camp site to provide temporary living  
4 quarters for recreational, camping or travel use.

5 (ll) "Motor home" means every vehicle, designed to provide  
6 temporary living quarters, built into an integral part of or  
7 permanently attached to a self-propelled motor vehicle, chassis or  
8 van including:

9 (1) Type A motor home built on an incomplete truck chassis  
10 with the truck cab constructed by the second stage manufacturer;

11 (2) Type B motor home consisting of a van-type vehicle which  
12 has been altered to provide temporary living quarters; and

13 (3) Type C motor home built on an incomplete van or truck  
14 chassis with a cab constructed by the chassis manufacturer.

15 (mm) "Snowmobile" means a self-propelled vehicle intended for  
16 travel primarily on snow and driven by a track or tracks in contact  
17 with the snow and steered by a ski or skis in contact with the  
18 snow.

19 (nn) "Recreational vehicle" means a motorboat, motorboat  
20 trailer, all-terrain vehicle, travel trailer, fold down camping  
21 trailer, motor home or snowmobile.

22 (oo) "Mobile equipment" means every self-propelled vehicle not  
23 designed or used primarily for the transportation of persons or  
24 property over the highway but which may infrequently or

1 incidentally travel over the highways among job sites, equipment  
2 storage sites or repair sites, including farm equipment, implements  
3 of husbandry, well-drillers, cranes and wood-sawing equipment.

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

6 (qq) "Manufactured home" has the same meaning as the term is  
7 defined in section two, article nine, chapter twenty-one of this  
8 code which meets the federal Manufactured Housing Construction and  
9 Safety Standards Act of 1974 (42 U.S.C. §5401, *et seq.*), effective  
10 June 15, 1976, and the federal manufactured home construction and  
11 safety standards and regulations promulgated by the Secretary of  
12 the United States Department of Housing and Urban Development.

13 (rr) "Mobile home" means a transportable structure that is  
14 wholly, or in substantial part, made, fabricated, formed or  
15 assembled in manufacturing facilities for installation or assembly  
16 and installation on a building site and designed for long-term  
17 residential use and built prior to enactment of the Federal  
18 Manufactured Housing Construction and Safety Standards Act of 1974  
19 (42 U. S. C. §5401, *et seq.*), effective June 15, 1976, and usually  
20 built to the voluntary industry standard of the American National  
21 Standards Institute (ANSI) -- A119.1 standards for mobile homes.

22 (ss) "House trailers" means all trailers designed and used for  
23 human occupancy on a continual nonrecreational basis but may not  
24 include fold down camping and travel trailers, mobile homes or

1 manufactured homes.

2 (tt) "Parking enforcement vehicle" means a motor vehicle which  
3 does not fit into any other classification of vehicle in this  
4 chapter, has three or four wheels and is designed for use in an  
5 incorporated municipality by a city, county, state or other  
6 governmental entity primarily for parking enforcement or other  
7 governmental purposes with an operator area with sides permanently  
8 enclosed with rigid construction and a top which may be  
9 convertible, sealed beam headlights, turn signals, brake lights,  
10 horn, at least one rear view mirror on each side and ~~such~~ other  
11 equipment that will enable it to pass a standard motorcycle vehicle  
12 inspection.

13 (uu) "Low-speed vehicle" means a four-wheeled motor vehicle  
14 whose attainable speed in one mile on a paved level surface is more  
15 than twenty miles per hour but not more than twenty-five miles per  
16 hour.

17 (vv) "Utility terrain vehicle" means ~~any~~ a motor vehicle with  
18 four or more low-pressure tires designed for off-highway use having  
19 bench or bucket seating for each occupant and a steering wheel for  
20 control.

21 (ww) "Mini-truck" means an imported truck manufactured for use  
22 in Japan or other foreign country typically weighing less than two  
23 thousand pounds.

24 **ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF**

1                   **CERTIFICATES OF TITLE.**

2 **§17A-3-4. Application for certificate of title; fees; abolishing**  
3                   **privilege tax; prohibition of issuance of**  
4                   **certificate of title without compliance with**  
5                   **consumer sales and service tax provisions;**  
6                   **exceptions.**

7           (a) Certificates of registration of ~~any~~ a vehicle or  
8 registration plates for the vehicle, whether original issues or  
9 duplicates, may not be issued or furnished by the Division of Motor  
10 Vehicles or any other officer or agent charged with the duty,  
11 unless the applicant already has received, or at the same time  
12 makes application for and is granted, an official certificate of  
13 title of the vehicle in either an electronic or paper format. The  
14 application shall be upon a blank form ~~to be~~ furnished by the  
15 Division of Motor Vehicles and shall contain a full description of  
16 the vehicle ~~which description shall contain~~ including a  
17 manufacturer's serial or identification number or other number as  
18 determined by the commissioner, ~~and~~ any distinguishing marks,  
19 ~~together with~~ a statement of the applicant's title, ~~and of any~~  
20 liens or encumbrances upon the vehicle and the names and addresses  
21 of the holders of the liens and any other information as the  
22 Division of Motor Vehicles may require. If a mini-truck does not  
23 have a manufacturer's serial number, identification number or other

1 number as determined by the commissioner, the division may assign  
2 the mini-truck a number. The application shall be signed and sworn  
3 to by the applicant. A duly certified copy of the division's  
4 electronic record of a certificate of title is admissible in any  
5 civil, criminal or administrative proceeding in this state as  
6 evidence of ownership.

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

11 (1) If the vehicle is new, the actual purchase price or  
12 consideration to the purchaser of the vehicle is the value of the  
13 vehicle. If the vehicle is a used or secondhand vehicle, the  
14 present market value at time of transfer or purchase is the value  
15 of the vehicle for the purposes of this section: *Provided*, That so  
16 much of the purchase price or consideration as is represented by  
17 the exchange of other vehicles on which the tax imposed by this  
18 section has been paid by the purchaser shall be deducted from the  
19 total actual price or consideration paid for the vehicle whether  
20 the vehicle be new or secondhand. If the vehicle is acquired  
21 through gift or by any manner, ~~whatsoever~~, unless specifically  
22 exempted in this section, the present market value of the vehicle  
23 at the time of the gift or transfer is the value of the vehicle for  
24 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  
7 between parents and children ~~Provided, That~~ so long as the husband  
8 or wife or the parents or children ~~previously have paid~~ have  
9 previously paid the tax on the vehicles transferred to the State of  
10 West Virginia.

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

23           (4) The Division of Motor Vehicles shall issue a certificate  
24 of registration and title to an applicant without payment of the

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

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

1 surrender to the commissioner the exempted registration, the  
2 exempted certificate of title and pay the tax imposed by this  
3 section based upon the current market value of the vehicle.  
4 ~~Provided, however, That~~ However, notwithstanding the provisions of  
5 section nine, article fifteen, chapter eleven of this code, the  
6 exemption from tax under this section for Class B vehicles in  
7 excess of fifty-five thousand pounds and Class C semitrailers, full  
8 trailers, pole trailers and converter gear does not subject the  
9 sale or purchase of the vehicles to the consumers sales and service  
10 tax.

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

19 (7) The tax imposed by this section does not apply to titling  
20 of vehicles by a registered dealer of this state for resale only.  
21 ~~nor does~~ The tax imposed by this section does not apply to titling  
22 of vehicles by this state or any political subdivision ~~thereof,~~ or  
23 by any volunteer fire department or duly chartered rescue or  
24 ambulance squad organized and incorporated under the laws of this



1 state as a nonprofit corporation for protection of life or  
2 property. The total amount of revenue collected by reason of this  
3 tax shall be paid into the State Road Fund and expended by the  
4 Commissioner of Highways for matching federal funds allocated for  
5 West Virginia. In addition to the tax, there is a charge of five  
6 dollars for each original certificate of title or duplicate  
7 certificate of title ~~so~~ issued ~~Provided,~~ except that this state,  
8 ~~or any a~~ political subdivision of this state, ~~or any a~~ volunteer  
9 fire department or a duly chartered rescue squad is exempt from  
10 payment of the charge.

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

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

20 (10) A person who has paid the tax imposed by this section is  
21 not required to pay the tax a second time for the same motor  
22 vehicle but is required to pay a charge of five dollars for ~~the a~~  
23 certificate of retitling of that motor vehicle. ~~except that~~ The tax  
24 shall be paid by the person when the title to the vehicle has been

1 transferred either in this or another state from the person to  
2 another person and transferred back to the person.

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

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

23 (13) The tax imposed by this section does not apply to the  
24 titling of any vehicle operated by an urban mass transit authority

1 as defined in article twenty-seven, chapter eight of this code or  
2 a nonprofit entity exempt from federal and state income tax under  
3 the Internal Revenue Code ~~and~~ whose purpose is to provide mass  
4 transportation to the public at large ~~designed for the~~  
5 ~~transportation of persons and being~~ and operated for the  
6 transportation of persons in the public interest.

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

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

12 (B) Presents evidence ~~as the commissioner may require~~ of  
13 ~~having titled the vehicle~~ as required by the commissioner that the  
14 vehicle was titled in the applicant's previous state of residence;

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

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

22 (E) Makes application to the division for a title and  
23 registration and pays all other fees required by this chapter  
24 within thirty days of establishing residency in this state as

1 prescribed in subsection (a), section one-a of this article.  
2 ~~Provided, That a period of amnesty of three months be established~~  
3 ~~by the commissioner during the calendar year 2007, during which~~  
4 ~~time any resident of this state, having titled his or her vehicle~~  
5 ~~in a previous state of residence, may pay without penalty any fees~~  
6 ~~required by this chapter and transfer the title of his or her~~  
7 ~~vehicle in accordance with the provisions of this section.~~

8 (c) Notwithstanding any provisions of this code to the  
9 contrary, the owners of trailers, semitrailers, recreational  
10 vehicles and other vehicles not subject to the certificate of title  
11 tax prior to the enactment of this chapter are subject to the  
12 privilege tax imposed by this section ~~Provided, That~~ except as  
13 follows:

14 (1) The certification of title of any recreational vehicle  
15 owned by the applicant on June 13, 1989, is not subject to the tax  
16 imposed by this section; ~~Provided, however,~~

17 (2) That mobile homes, manufactured homes, modular homes and  
18 similar nonmotive propelled vehicles, except recreational vehicles  
19 and house trailers, susceptible of being moved upon the highways  
20 but primarily designed for habitation and occupancy rather than for  
21 transporting persons or property are not subject to the tax imposed  
22 by this section but are taxable under the provisions of articles  
23 fifteen-a, chapter eleven of this code; and

24 (3) ~~or~~ Any vehicle operated on a nonprofit basis and used

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

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

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

1 is issued under this chapter or chapter eleven of this code is, on  
2 the first offense, guilty of a misdemeanor and, upon conviction  
3 thereof, shall be fined not more than \$500 or ~~be~~ confined in jail  
4 ~~for a period not to exceed~~ not more than 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~~ the person is  
7 guilty of a felony and, upon conviction thereof, shall be fined not  
8 more than \$5,000 or ~~be~~ imprisoned in a state correctional facility  
9 for 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

1 confined. For each subsequent offense, the fine may be increased  
2 to not more than \$2,000 with confinement in jail not more than one  
3 year or both fined and confined.

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

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

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

16 (i) Notwithstanding any other provision contained in this  
17 section, ~~nothing herein shall be considered to~~ this section does  
18 not include modular homes as defined in subsection (i), section  
19 two, article fifteen, chapter thirty-seven of this code and built  
20 to the State Building Code as established by legislative rules  
21 promulgated by the State Fire Commission pursuant to section five-  
22 b, article three, chapter twenty-nine of this code.

23 **§17A-3-7. Grounds for refusing registration or certificate of**  
24 **title.**

1       The division shall refuse registration or issuance of a  
2 certificate of title or any transfer of registration upon any of  
3 the following grounds:

4       (1) That the application contains ~~any~~ a false or fraudulent  
5 statement, ~~or that~~ the applicant has failed to furnish required  
6 information or reasonable additional information requested by the  
7 division or ~~that~~ the applicant is not entitled to the issuance of  
8 a certificate of title or registration of the vehicle under this  
9 chapter;

10       (2) That the applicant fails to present a statement of  
11 insurance or proof of other security as required ~~pursuant to~~ under  
12 the provisions of section three of this article;

13       (3) That the vehicle is mechanically unfit or unsafe to be  
14 operated or moved upon the highways except that a mini-truck shall  
15 be titled and registered without regard to federal safety or  
16 emission standards;

17       (4) That the division has reasonable grounds to believe ~~that~~  
18 the vehicle is ~~a~~ stolen or embezzled ~~vehicle~~ or that the granting  
19 of registration or the issuance of certificate of title would  
20 constitute a fraud against the rightful owner or other person  
21 having a valid lien upon such vehicle;

22       (5) That the registration of the vehicle stands suspended or  
23 revoked for any reason as provided in the motor vehicle laws of  
24 this state;



1 (6) That the required fee has not been paid; or

2 (7) That the vehicle is operated by a commercial motor carrier  
3 who has failed to provide a federal motor carrier identification  
4 number (USDOT number) or whose authority to operate in interstate  
5 commerce has been denied or suspended by the Federal Motor Carrier  
6 Safety Administration.

7 **ARTICLE 3A. VEHICLE COMPLIANCE WITH FEDERAL CLEAN AIR STANDARDS**  
8 **AND VEHICLE SAFETY.**

9 **§17A-3A-2. Consumer disclosure.**

10 Before a motor vehicle not originally manufactured in  
11 accordance with the laws and regulations of the United States Clean  
12 Air Act and the Motor Vehicle Safety Act can be sold to a consumer  
13 in this state, the seller must provide the purchaser with full  
14 written disclosure of all modifications performed to the vehicle.  
15 This disclosure consists of a description phrased in terms  
16 reasonably understandable to a consumer with no specialized  
17 technical training, accompanied by a copy of the technical  
18 submissions made to the Environmental Protection Agency and  
19 Department of Transportation in order to obtain certification of  
20 compliance. Failure to make this disclosure renders the sale  
21 voidable. Notwithstanding any provision to the contrary, the  
22 seller of a mini-truck is not required to modify the vehicle to  
23 comply with any federal laws or regulations nor is the seller  
24 required to make any disclosure to the purchaser.

1 **§17A-3A-3. Certificates of title.**

2 (a) Before ~~any~~ an imported vehicle which has not previously  
3 been titled or registered in the United States may be titled in  
4 this state, the applicant must submit:

5 (1) A manufacturer's certificate of origin issued by the  
6 actual vehicle manufacturer together with a notarized translation  
7 thereof; or

8 (2) ~~the~~ Documents constituting valid proof of ownership by an  
9 individual owner or exporter and evidencing a change of such  
10 ownership to the applicant ~~together~~ with a notarized translation of  
11 any document; or

12 (3) With regard to vehicles imported from countries which  
13 cancel the vehicle registration and title for export, the documents  
14 assigned to such vehicle after the registration and title have been  
15 canceled ~~together~~ with a notarized translation ~~thereof~~, and proof  
16 satisfactory to the division that the motor vehicle complies with  
17 the United States Clean Air Act and the Motor Vehicle Safety Act.

18 (b) In the event ~~that~~ the documents submitted as required by  
19 subsection (a) of this section do not name as owner the current  
20 applicant for a certificate of title, the applicant must also  
21 submit reliable proof of a chain of title. For those countries  
22 which utilize documents of registration rather than a certificate  
23 of title, proof of a chain of title for purposes of this subsection  
24 shall be accomplished by presenting the change of ownership

1 certificate referred to in subsection (a) of this section.

2 (c) Mini-trucks are exempt from the provisions of this  
3 section.

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

5 **§17A-4-3. New owner must secure registration and certificate of**  
6 **title.**

7 ~~The transferee before operating or permitting the operation of~~  
8 ~~such vehicle upon a highway shall apply for and obtain the a~~  
9 registration ~~thereof~~, as upon an original registration, before  
10 operating or permitting the operation of a transferred vehicle upon  
11 a highway except as otherwise permitted in sections thirteen and  
12 fifteen, article six, or by any other provisions of this chapter  
13 ~~Provided, except~~ that ~~such the~~ transferee may operate ~~such the~~  
14 vehicle under the registration of its previous owner for a period  
15 of not more than ten days as provided in section one, article three  
16 of this chapter.

17 ~~A transferee shall~~ At the same time, a transferee shall  
18 present the certificate of title, endorsed and assigned, ~~as~~  
19 ~~hereinbefore provided~~ to the department division and make  
20 application for and obtain a new certificate of title for ~~such the~~  
21 vehicle except as otherwise permitted in sections four and five of  
22 this article. A transferee of a mini-truck is only required to  
23 present the certificate of title endorsed and assigned by the

1 transferor if the mini-truck was previously titled in this state.  
2 In all other circumstances, the transferee of a mini-truck need  
3 only submit a bill of sale as proof of transfer of ownership.

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

5 **§17A-10-1a. Classification of unique vehicles.**

6 The commissioner is authorized to create new registration  
7 classifications or subclassifications for vehicles that:

8 (1) Meet more than one definition in section one, article one  
9 of this chapter;

10 (2) Are not defined; or

11 (3) Are unique or distinct from other vehicles in  
12 classifications in section one of this article. The registration  
13 fee for any classification or subclassification created is the same  
14 as Class A vehicles.

NOTE: The purpose of this bill is to allow mini-trucks to be licensed in West Virginia for limited use on public highways.

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

§17A-10-1a is new; therefore, it has been completely underscored.